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THE OFFICES OF

*Constables, Church-Wardens,
Overseers of the Poor, Supra-
visors of the High-ways,
Treasurers of the County-Stock;
And some other lesser Country
Officers, plainly and lively set forth.*

The third Edition, with divers
Additions and Alterations, agreeable to
the late Acts and Ordinances.

By WILLIAM SHEPPARD, Esq;

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THE
OFFICE

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WILLIAM SHEPARD, Esq.

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To all his Loving
Country-men.

MY Deer Friends,
whose welfare
as I much de-
fire, so shall I,
as I may, en-
deavour. And having considered
within my self, how commonly
the most of you are necessarily
called to take upon you the offices
of

The Epistle.

of Constable, Church-war-
den, Over-seer of the Poor,
Supravisor of the High-
wayes, and some other like of-
fices, how large the extent of
these offices are, and how little
knowledge and skill the most of
you have therein; whence it
cometh to pass, that in execution
of them, sometimes on the right
hand you exceed your authority,
and fall into the hands of the
mercilesse Malefactor; & some-
time (and more commonly) on the
left hand, you fall short of your
authority, (for he that goeth in
the dark knoweth not where he
goeth) and doe not so much as you
may, which proves a discouragement

The Epistle.

ment to the officer, and encouragement to the offender, and hindrance of Justice. For the Cure hereof, I did heretofore in one Book, give you a draught of all these lesser Country offices, and therewith also an Epitome of some of the most common and usefull Statutes referring thereunto. This Book I have now again revised, corrected, and by many alterations and additions fitted to our present time, and so I deliver it into your hands, as a Looking-glasse for you. And oh that I could now perswade you all to buy it and read it, to know what you, may, and what you are to doe.

And

The Epistle.

And when you know it, in the
name of God doe it, and fear
not : for in so doing, you shall
doe God much service, and your
Country much good. And this
that you may doe, shall be al-
wayes the prayer of

your Loving

Country-man,

W. S.



CHAP. I.

Of Offices and Officers in generall.



N Office is that Function, Office and Office by vertue whereof a man *cer, what.* hath some employment in the affairs of another. And an Officer is he that is so employed.

There are divers kinds *The kinds of* and distinctions of Office *Officers.*

cers and offices in this Nation: we have had Officers and Offices Spiritual, or Ecclesiasticall, such as were conversant about Ecclesiasticall matters, as Ordinances, and such like, which are gone; and Ministers, Church-wardens, and the like, which doe yet continue.

SECT. I.

OR Civill, such as were conversant about Civill matters: The Civill Officers and
A Offices

Offices are again, some of them, judiciall, that is, such as are to administer Justice upon the Bench, and in the highest place, and have judiciall voyces in some of the Courts of Justice, as the Lords Commissioners of the great Seal, Judges in the two Benches, Barons in the Exchequer, Justices, of the peace in their Sessions, Stewards in Leetes and divers others. And others of them are ministeriall onely, that is, such as doe attend upon the judiciall Officers, and serve, either to prepare and make ready matters for the judiciall Officers to determine; to all the ministeriall Officers in and about all the Courts of Justice: or else they serve to execute what the Judges have before determined; such were Constables, Keepers of Prisons, and divers others: And some again are partly judiciall, and partly ministeriall, who have in some things a judiciall power, and act as Judges; and in other things, onely a ministeriall power, and can act but as Ministers; so are Sheriffs, and other officers in divers particular acts of their Office: And some Officers and Offices are, and serve for all the Nation; and some are, and serve for one County onely, and may be called Countie Officers; so Sheriffes, Coroners, Treasurers of the Countie stock, and others; And some serve for one Hundred onely, and may be called Hundred Officers; and some are and serve for one Parish onely, as the Parish Constable, Church-wardens, Overseers of the poor, Surveiors of the high-ways, the Register, Parish-Clerk, Hayward, and the like: And some for one place or house onely, as the
Master

Offices and Officers in generall.

SECT. 1.

Master of the house of correction for that house, the Keeper of a Prison for that Prison onely, and so of others; some are for the publique administration of justice, as Sheriffs, Constables, and such like Officers: and some are, and serve onely for, and to the private interest of some men, as the office of Parkers, Bayliffs, and such like. As to Officers and Offices, that concern the publique administration of justice, these things are to be known as to their qualification.

1. They must be fit for their office, that are chosen into it.

SECT. 2.

And therefore none that are by law privileged, and exempted, are to be chosen as the Officers, whose personall attendance is necessary in any of the Courts at *Westminster*, or in the Court of *White-hall*, may be chosen to an office in the Country, wherein his personall attendance is necessary, as Constable, Churchwarden, or the like. Attorneys therefore, of the Courts at *Westminster*, the ordinary servants of the Lord Protector in his house, are exempted; so are ministers, also Physitians, and Surgeons in *London* are exempted, and some others.

2. They must be fit in body, and minde to doe their work, and duty of the office, or else in some cases they are to be removed, and others put in their place.

3. The Lord Protector, as it seemes, may.

A 2

by

Offices and Officers in generall.

by his Letters Patents, exempt any man from serving of any of these Offices. And as to their coming into their Offices;

1. They must be duly and orderly chosen, according to the law in that case provided, otherwise all that they doe in the execution of of their Offices, will be illegall, and they may be sued for it. And therefore if a Constable, by consent of Neighbours only, shall be chosen and sworn in a Court Baron only, and not in a Leete, or by Justices of Peace, and he shall arrest, or do any thing as Constable; he may be sued as any other man that shall take upon him so to doe. So if Church-wardens, Overseers of the poor, shall be chosen at any other time, or in any other manner, than is by the Statutes and Ordinances provided; or being duly chosen, shall not be confirmed by the Justices of the Peace, according to the Lawes in that case provided; all that he doth is unlawfull, and he may be sued for it.

2. They must come freely to such Offices, for if they give or promise to give any reward or fee for them, they are disabled to execute or exercise the same Office. *Stat. 5. and 6. Ed. 6. 16.*

S E C T. 3.

3. **T**hey must attend their charge and Offices, & if they be negligent therein, sometimes they may be punished by speciall penalty as the Lawes appoynt. And in some cases, if any man have any speciall prejudice by

by their neglect, he may perhaps have a speciall action of the case against him for this neglect.

4. And as to their demeanor in their Offices;

1. They must in the execution of their Offices, pursue the order prescribed by the Law in every particular; otherwise they may be liable to Actions for what they doe, as another man may be; and therefore if Overseers of the Poor shall make a Rate upon one man that doth owe another poor man money, as much as the debt, and give it to the poor man for his debt, or the like, he may be sued for this, when he doth distrain for the money Rated. And if any such Officers shall, by colour of their Offices, and by conspiracy together, or with others oppress any man, or charge him otherwise then the Law doth authorize them, the party grieved may have an Action of the case against him for it. But if any Rate made to the right and they over Rate, the party grieved cannot sue them, nor have other remedy, but by appeal to the Justices or the Sessions, as the Statute and Ordinance doth appoint.

SECT 4.

2. **T**Hese Officers cannot make a Deputy to execute their Offices, but another man may assist them, and doe some of the worke under them, but they must answer for them; nor can such Servant or Deputy take any mans person, or goods, as Officers, but as assistant to the proper Officer, and by

his command ; therefore let such Deputies take heed how they meddle herein.

3. And they must be content with the Fees appointed them by law, for any thing they doe in their Offices : for if any Officer, by colour of his Office, shall require, or take a fee where none is allowed, or take more than the fee allowed, where any fee is allowed : this is extortion and punishable by fine and imprisonment. And yet if any man shall *gratis* give an Officer any thing, for the doing of any part of his Office; this is no extortion, nor can he be punished for it

S E C T. 5.

BUt as to this point of the Officers execution of his Office, and all the cases of law that referre thereunto. These things are further to be known,

Arrest.

1. That every Officer, that doth by vertue of his Office arrest any mans person, or take any mans goods ; he must be sure to look to all these things.

2. That he hath a good authority so to doe, either by a good warrant from some superior Officer at the time of the act done, for a warrant after gotten will not doe, or *ex officio*, That is by his own authority as Officer, or otherwise his act will be unlawfull, and be liable to an action for the doing of it.

3. That he doe arrest or take the goods of the right parry, and not of another man by mistake, for if he doe he will be liable to an action

action for it : And herein he is to know, that though he be led into the mistake by the Prosecutor, Plaintiff, or Party arrested himself, or a third man, this will not excuse him : but if there be two of one name, and there be no note of distinction, and the Process be served upon the wrong, and not the man intended, the Officer is excusable : And yet if the Officer arrest the party intended, but he is named by another name in the Warrant ; this is actionable.

4. He must doe it at a seasonable time. And for this, these things are to be known. 1. That an arrest of a Man for Felony, or the Peace, or good Behaviour, or otherwise, in case of the Lord Protector, may be in the night as well as in the day. 2. No Officer may execute any Writ, Order, or Warrant on the Lords day, or any day of Humiliation, or thanksgiving (but in case of Treason, Felony, breach of Peace, and profaining of the day.) 3. If an Officer have a Warrant to arrest ; and bring a man to the next Sessions, he cannot arrest him after the Sessions, and if he doe, he may be sued for it. 4. In case of distresse of goods, it is safe for the Officer to doe it by day. 5. If he doe it out of time, he may be sued for it.

5. He must doe it in the right place, for this he must know.

SECT. VI.

1. **T**hat he cannot, regularly, take a Man or his goods, without the place or Parish where he is Officer, and yet perhaps if a Man be coming to take his Goods, and drive them out of the place, or Parish, he may follow them and take them, or if a Man be arrested by the Officer, and escape into another Parish, there, upon a fresh suite, he may follow him and take him there : And yet let the Officer be well advised herein : for we cannot assure him, that the Law will excuse him in these cases.

2. No Officer may arrest the Person of a Minister, going to, or returning from his Church, in an ordinary course, about the service of God, much lesse, when and whiles he is exercised about divine things.

3. And yet in this case, the arrest is deemed to be good, and no Action will lye against the Officer : but they may be punished by the Justices for it.

SECT. VII.

4. **T**He arrest of any other Man, whiles he is at Church, is punishable, by Justices of Peace; yet the arrest is good, not actionable : but an arrest of a Man going to, or coming from Church, on a week-day is very lawfull.

5. That

5. That after he hath arrested him, or attached his goods, he doe not abuse him or them; and therefore he can doe or use no more violence therein, but what is necessary to the safe custody, and convey of the Person, and his goods; and if he use more, he will be liable to action: so also, if he keep the Person or Goods longer than the Commitment, and when the Prisoner shall be discharged, upon any pretence whatsoever: so also when he keepeth the Person arrested, longer than he needeth, from the Justice or the Gaol, this is actionable.

6. If a Warrant from a Justice be to three or more joyntly, and severally, that they shall arrest or levy goods, they may all doe it, or any one of them may do it; but it wil not be safe for any two of them alone to doe it.

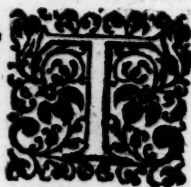
7. If an Officer doe any way misdemean himself, and doe otherwise then as before, in any of these things, if it be with the agreement and consent of the party arrested, or whose goods are taken, this will excuse and take away the Action. Now having said somewhat of Officers and Offices in generall, We shall say something to some of these Officers and Offices in particular; and first of County Officers, and then of Parish Officers, and then of Officers of some speciall places.



CHAP. II.

Of the Treasurers of the County Stock, for relief of Poor Maimed Soldiers and Marriners, and the Widows and Orphans of such as died in the Service of the Parliament, and their Office.

*What they are,
and how they
are chosen.*



The Treasurers of the County Stock for the relief of Poor maimed Soldiers and Marriners, are certain Officers yearly appointed by the Justices of Peace, to have the charge of the Receipt and disbursment of the money taxed and levied

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ed upon the whole County yearly for the relief of poor maimed Soldiers and Marri-ners : For the Justices of the Peace are yearly at their Quarter Sessions, about *Easter*, to choose or appoint one or two persons (ac-cording to their discretion) of the County, for the taking and distributing of the moneys of the County, collected for the relief of the poor maimed Soldiers and Marriners : And the men so appointed (by the words of the Statute) must be such Men as, at the last Taxation before for the Subsidy, were valu-ed at Ten pounds in Lands yearly, or Fifteen pound in Goods (but if they be sufficient men, this it seems is not stood upon.) And these are to continue in their Office one year, and no longer, and then others are to be chosen in their room, 42 *Eliz.* 3.

The Office and Duty of these Officers *Their Office and Duty.*
doth consist in these things.

1. They are to receive of the High Consta-bles of the Hundreds quarterly the sums of mo-ney rated and taxed by the Justices of the Peace upon every Parish, for the relief of sick, hurt, and maimed Soldiers and Marriners ; and if in case there be any defaults by the petty Constables, or High Constables, in the levy-ing of the sums, or in the payment of them over, so as thereby they make any forfei-ture. These Officers (and as it seems) with-out any Warrant from the Justices of Peace, may levy the same forfeitures by sale of the offenders Goods, rendring to him the over-plus for the Parishioners ; and in their de-fault, the Petit-Constables and Church-wardens

wardens are to set the Justices Rate : And this Rate, if men pay not, the Church-wardens and Petit Constables may levy it by distress and sale of their Goods : And if neither the Parishioners, nor Constables and Church-wardens doe set the Rate, then any Justice of Peace in or near the place, may do it.

2. Every Soldier or Marriner, impotent, sick, and disabled by the publique service, having a Certificate to any of these Officers, under the Hand and Seal of the General of the Camp, or Governor of the Town where he served, or of the Captain of the Bond under whom he served, or his Lieutenant ; or in the absence of the said Generall or Governor ; from his Marshall or Deputy, or from any Admirall ; or in his absence, from any other Generall of the Ships at the Seas, wherein the said Soldiers or Marriners did serve, setting down the particulars of their Hurts and Services ; The Certificate being also allowed by the Generall Muster Master for the time being, in the Realm, or Receiver Generall of the Muster Rolls, the Treasurer and Controller of the Navy ; This Soldier or Marriner may repair to any one of these Officers of that County, out of which he was prest ; or if he were not prest, to this Officer of that County where he was born or last inhabited, by the space of three yeers at his Election : And if he be not able to goe thither, he may repair to any one of these Officers of the County where he doth land. And if any such Soldier or Marriner shall

shall thus make to any of these Officers, it is the duty of this Officer, to give such a portion of relief to him at his present necessity, as he shall think fit ; having respect to his need, and the commendation of his service ; and this to sustain him untill the next Quarter Sessions, and then the Justices of Peace by a kind of Instrument, may grant him a pension to be paid by this Officer, so long as the Statute doth continue, if the party so long live, and it be not duly revoked. And this must be alwaies paid by succeeding Treasurers quarterly. But the same present sum so given, or yearly Pension so granted, must not exceed Ten pound in gross, or *Per annum*, to a common Soldier, nor the sum of fifteen pound to any that hath born Office under the degree of Lieutenant, nor the sum of Twenty pound to any that hath been a Lieutenant. And these Pensions, the Justices at their Quarter Sessions, may upon causes alter at their pleasures. And these Marriners and Soldiers, when they Land in the way of their travell, before they can get the confirmation of their Certificate, must have competent allowance from the Treasurer of every County as they pass from the place of their Landing.

3. They are to keep a book, and therein to Register all the Certificates they doe receive and allow, and all their receipts and disbursements. And if any of them doe refuse any Certificate, he must set down the reasons of his refusall under it, or on the backside of it.

4. They are at the end of their year, to
give

give up a just account to the succeeding Treasurers, of all their receipts and disbursements, within the time of their Office, and then also, if they have any money in their hands, they are to deliver up the same to the succeeding Treasurers ; And this they must doe within ten daies after *Easter Sessions*. And if any such Officer so chosen, shall refuse to execute his Office, he may be fined for it by the Justices of the Peace : And if any such Officer shall wilfully refuse to give relief to a Soldier or Marriner as aforesaid, the Justices of the Peace may fine him for the same, according to their discretion: And if any such Officer, his Executors or Administrators, shall not give up his accompt within the time aforesaid, or shall be otherwise negligent in the execution of his Office ; The Justices of the Peace at the Sessions, may assess such fine upon him, his Executors or Administrators, as they think fit, so it be not under five pounds. And all the fines and forfeitures happening for the breach of this Statute, must be employ'd by these officers to the uses aforesaid. And if any of the County Stock, shall be left in their hands, it must be disposed to the use of the poor, in such sort as the Justices of Peace shall appoint. *Stat. 43. Eliz. Ch. 3.*

5. These Officers now by the Ordinance of *May*, one thousand six hundred forty seven, are also to receive the money Rased upon the County by the Justices of the Peace, at their Sessions, for the relief of the maimed Soldiers and Marriners : And the Widows and Orphans,

phans, of such as have died in the service of the Parliament during the late Wars ; And this they are to pay out thus.

1. To any such maimed Soldiers and Mariners, as by Warrant under the Hand of two Justices of Peace they shall be appointed, untill the next Quarter Sessions.

2. And then as by the Pention, there it shall be settled.

3. To the Widows and Orphans so much as two Justices of Peace shall set down.

4. In cases where the High Constables of hundreds, or Petit Constables of Parishes; faile of their duty herein, and they are for for this neglect, to be fined by the Justices. For which see *chap. 8. sect. 2. chap. 10. Numb. 12. chap. 7. sect. 8.* It will be the duty of these Officers to see those inferior Officers indicted for it, that so they may be fined for it, for without indictment they cannot be fined, *Ordin. 10. August. 1647. and 20. of May 1647. Stat. 43. Eliz. Ch. 3.*

CHAP. III.



CHAP. III.

Of the Treasurers of the
County Stock, for relief
of the Prisoners in the
Kings Bench and *Mar-*
shalsey.

*what they are,
and how they
are chosen.*



He Treasurers of the Coun-
ty Stock, for the relief
of Prisoners in the *Kings*
Bench and *Marshalsey*,
and for the relief of Ho-
spitals and Alms-houses
within the same County,
are certain Officers ycer-
ly appointed by the Justices of Peace, to have
the charge of the Receipt and Disbursments
of the money, taxed and levied upon the whole
County ycerly, for the relief of the Prisoners
in the *Kings Bench* and *Marshalsey*; and for
the relief of Hospitals and Alms-houses within
the same County; for the Justices of Peace
are ycerly at their Quarter Sessions, about
Easter, to chuse and appoint two persons of
the

the County, Officers for this purpose ; and the men so appointed [by the words of the Statute] must be such men, as at the Tax of the Subsidy last before were taxed at five pounds Lands, or ten pound goods at the least, or near of that value. And these are to continue in their Office but one year, and then others are to be chosen. The Office and Duty of these Officers doth consist in these things.

1. They are to receive of the High Con-^{Their Office}stables of the Hundreds quarterly, the sums ^{and Duty.} of money rated and taxed by the Justices of the Peace, upon every Parish, for the relief of the poor prisoners in the *Kings-Bench* and *Marshalsey* ; and for the relief of the poor within the Hospitals and Alms-Houses within the County : And if in case there be any default by the Petty-Constables, or High Constables, or by the Church-Wardens in the rating, levying, or payment of these sums, so as thereby they make any forfeiture : The Officers, (and as it seems, without any Warrant from the Justice of Peace) are to levy the same by sale of the Offenders Goods, rendering to the party offending the overplus, if there be any, for the Parishioners ; and in their default, the Petit-Constables and Church-Wardens are to distribute the Rate of the Justices of the Peace. And this Rate, if neither the Parishioners, nor Constables and Church-Wardens doe make, any Justice of Peace, in or near the place may make it ; and being made, the Constables and Church-Wardens may levy it by distresse and sale of Goods : And for lack

of distresse, the Justice may send the party to Prison, there to abide till it be paid, without Baile or Mainprize.

2. This money so by them received, they must pay over (and, as it seems, in convenient time after the Receipt thereof) to the Lord Chief Justice of *England*, and Knight Marshal for the time being, equally to be divided to the uses aforesaid, taking their acquittance for the same; or in default of the said Chief Justice, to the next ancientest Justice of the Upper-Bench.

3. They are to pay yeerly, by a quarterly payment, such a sum of money as shall be set down by the Justices of Peace, at their Quarter-Sessions, unto the Masters and Governors of the Houses of Correction; The which if they doe refuse or neglect to doe, the same Masters or Governors (without any other Authority) may levy the same of the Goods of the same Treasurers, by sale of their Goods, rendring to them the over-plus.

4. The surplussage of the money, by them received, they must distribute and bestow for the relief of the poor Hospirals of the same County, and for the relief of those that shall sustain losses by Fire, Water, the Sea, or other Casualties, according to the discretion of the Justices of the Peace of the County.

5. They are at the end of their yeer, at Easter-Sessions, to give an account to the succeeding Treasurers of all their Receipts and Disbursements in the time of their Office:

rice : And then also, if they have any money in their Hands, they are to deliver up the same to the succeeding Treasurers. And if any Treasurer so elected, as before, shall wilfully refuse to take upon him the same Office of Treasurership, or to distribute and give relief, or to account according to that Order the Justices shall set down, the Justices may fine him for the same, at their Sessions, according to their discretion, so it be not under three pound : And all the Fines and Forfeitures for the breach of any Branch of the Statute 43 Eliz. c. 2. must be employed to the uses last aforesaid, as the justices shall appoint.

6. In cases where the Constables and Church-Wardens of Parishes, or Constables of hundreds faile of their duty herein, and they for this neglect are to be fined, by the Justices (for which see *chap. 8. sect. 2. chap. 10. numb. 12.*) *chap. 7. sect. 8.* It will be the duty of those Officers, to see those inferior Officers indicted for it, that so they may be fined for it ; for without indictment, they cannot be fined, *Stat. 43 Eliz. 7. Jac. 4.*



CHAP. IV.

Of the *Collector* of the money for the relief of the Prisoners in the Common-Goal, and his Office.

what he is, and how he is chosen.



He *Collector* of the money for the relief of the Prisoners in the Common-Goal, is an Officer appointed by the Justices of the Peace, to have the charge of the receipt and disbursment of the money taxed and levied upon the whole Countrey, for the relief of the Prisoners in the Common-Goal. For the Justices of the Peace at their Quarter-Sessions, are to choose and appoint some sufficient person, living neer to the Common-Goal of the Countrey ; as a *Collector* to receive and distribute the money assessed by them upon the Countrey, for the relief of the prisoners in the Common-

Common Gaol : And this Officer may be in his Office for longer time than one year.

14 Eliz. 5.

The Office and duty of this Officer, doth consist only in these things.

1. That he be ready at every Quarter-^{His Office and} Sessions, to receive from the High-Constables ^{Duty.} of the Hundreds, the monies Rated by the Justices of the Peace on every Parish, for the relief of the prisoners in the Common-Gaol of the Country.

2. That he doe weekly pay and distribute the same to the same prisoners in such sort as the Justices of Peace shall appoint. And if he offend in either of these things, he shall forfeit for the same offence five pounds.

3. In cases where the Church-Wardens doe not their duty, or the Constables of Hundreds doe not their duty herein, and they may be fined by the Justices for their neglect herein, (for which see chap. 8. sect. 2. and chap. 10. numb. 12. It will be the duty of these Collectors to see them indicted before the Justices that so they may be fined; for without indictment they cannot be fined, Stat. 14 Eliz. 5.



CHAP. V.

Of the Governor of the
House of Correction, for
the County and his Of-
fice.

*What he is, and
how he is cho-
sen.*



He Governor, or Master of the House of Correction, is an Officer appointed by the Justices of Peace, to have Oversight and Government of the House of Correction, and of persons committed to the same. For such Houses are to be, and are provided and maintained with Mills, Turns, Cards, and such like necessary implements in every County, for the Keeping, Correcting, and Setting to work of Rogues, Vagabonds, Sturdy Beggars, and other idle and disorderly persons. And the Justices of the Peace; or the greater part of them, at the Quarter-Sessions, are to choose and appoint one or more sufficient and honest persons to be Governors, or Masters of the said House, and to take sufficient security from the said Governors for the continuance

ance and performance of the said Service ; and to set down what allowance they shall have yearly for their pains (which they may charge upon the County) and for the relief of such as shall happen to be weak and sick in their Custody ; and for the Stock to set on work such persons as shall be committed thither ; and to set down other Orders touching the same, according to their discretion : And this Money so allowed, they shall have according to the appointment of the Justices of Peace as aforesaid, to be paid quarterly before-hand by the Treasurer of the County, for the relief of the prisoners in the *Kings-Bench* and *Marshalsey*. And if the Treasurer refuse or neglect to pay it thus, the Master of the House of Correction may levy the same, or so much thereof as shall be unpaid upon the Treasurers accompt, by distress and sale of his Goods, rendring unto him the overplus of the Money, 39 *Elix.* 4. 7 *Jac.* 4. The Office and Duty of this Officer, is in these things.

First, To look well to the same House and the backside thereof, and all the Implements and Goods he doth finde there ; he is also to look to all the persons he doth finde there, or that shall be afterwards committed to him. *His Office and Duty.*

Secondly, To receive such Rogues, Vagabonds, Idle, or Disorderly Persons, as by any of the Justices of Peace shall be sent thither.

Thirdly, To keep safely all such as are committed to him, and not to suffer them to wander about the Countrey, or to escape away without Order of the Justices.

Fourthly, To see and take care, that amongst

mongst the persons committed to his charge, if there be any sick or otherwise impotent, &c. that have need of relief, That he doe relieve them according to their necessity.

Fifthly, To see and take care, as for the rest that are able to work, that he doe from time to time, as they shall remain there, set them to work and labor; for during that time they must in no sort be chargeable to the Countrey for any allowance, either at their coming in or going forth, or abode there; for they are to have such and so much allowance only, as they shall deserve by their own labor and work.

Sixthly, To punish them (as he seeth cause) with putting on Fetters or Givcs upon them, and by a moderate whipping of them.

Seventhly and lastly, At every Quarter-Sessions to give an account of all such persons as have been committed to his custody. And if they shall offend in any of these particulars, or any other incident to the duty of their Office; the Justices of the Peace may impose such Fines and Penalties upon them for the same, as they shall think fit. And these fines must be paid unto, and accounted for, by the Treasurer of the County for the Kings-Bench and Marshalsey.



CHAP. VI.

*Of the Keeper of the Gaole of
the County, and his Office.*



He Gaoler or Keeper of *Gaoler what.*
a Prison, is one that
hath the Custody of the
place and Prison where
in Prisoners are kept;
and of these, there are
as many as there be
Gaoles and Prisons.

As to the Power and Office of these Officers; *His Power and
these things are to be known. Office.*

1. They are to receive such Prisoners as are
duly sent, or offered to them, and all that are
sent by a Justice of peace Warrant, they must
receive. If any Officer arrest a man upon su-
spicion of Felony, and carry him to the Gaol-
er, he must receive him without a Justice
Warrant; and if any man that is no Officer,
take a Fellow doing the Felony, and bring
him to the Gaoler, it seemes also that in this
case, he is to receive him also.

2. His duty and charge is, to look well to
the

the Prisoners that are in his custody; for if he suffer any of them to escape, he will be punished for it: If they be Prisoners for debt, and he let them escape voluntarily, or negligently, he must pay to the Creditor his debt. If they be in for Felony, and the Keeper suffer them willfully to escape, he is a Fellow, if negligently he is finable: and so he is for the escapes of lesser Offenders.

3. It hath been held by some Judges therefore, that a Gaoler may justify the putting of Belts upon the Legs of any Prisoners committed to him.

4. Keepers they are to see, that their Prisoners have necessary provision.

5. For this the Law doth give an action of debt to the Gaoler, against his Prisoner; nor can the Prisoner in this action, be suffered to wage his law.

6. They are to take care, that such Prisoners as are in their custody in execution for debt, be kept in strait custody, and have not too much liberty: for by this means, they will be forced the sooner to pay their debts.

7. They may not compell, or procure their Prisoners to become approvers, that is accusers of others; for this is Felony.

8. If a Prisoner of debt get away from a Gaoler against his will, he may follow him and take him again, and bring him to, and put him in, the Gaole again. And so he may any Prisoner that is in for any Crime or offence. But if a Keeper doe voluntarily deliver a Prisoner of debt, there he cannot retake him & put him in Prison again, for he is discharged of his

his imprisonment, and the Gaoler must satisfy the debt. *Co. 9. 87. Dier. 249. Stat. 1 Ed. 3. Stat. 1, 7, 8 Ed. 3. 14 Ed. 3. Stat. 1, 10. Br. Faux Impr. 24. 27.*



CHAP. VII.

Of Constables, Tithingmen and the like Officers, and their Office.

SECT. I.

What they are, and how many sorts of them there are.



O omit to shew the Etymo- Statute of Wix-
logic and diverse accep- chester, 1. Lāb.
tance of the word *Constable*, of the Duty of
the Antiquity and Origi- *Constables*.
nall of the Office of the *Finches Law*
Constable we are now to 306. Sir Tho.
trear, of, and the divers *Smith de Re-*
kindes of Officers of this name in the *Com- pub. l. 2. cap.*
mon-wealth, and to take up so much only as 25. 12 H. 7.
may serve to our present purpose. The *Com- 18.*
stables.

stables (whose Offices we intend to speak of) are said to be Officers of the Common-wealth, appointed for the maintenance of the Peace thereof, and to be attendant to Court-Letters, Justices of Peace and Coroners, for the execution of their Warrants within their Precinct and Liberty: And Master *Lamberd* saith the name of a *Constable* in a Hundred or Franchise doth mean, that he is an Officer that did support the Kings Majesty in the maintenance of his Peace, within the Precinct of his Hundred or Franchise: And of these *Constables*, there are now said to be two sorts. The first sort are the *high-Constables*, which are for the whole Hundred, Lath, Rape or Wapentake, the which doe comprehend many Parishes, Tythings and Villages; and therefore these Officers, in respect of Place, have a more large command than *petty-Constables* have. These Officers were ordained by the Statute of *Winchester*, which doth appoint (amongst other things) That for the better keeping of the peace, two *Constables* in every Hundred or Franchise shall make the view of Armour; and they are called *high-Constables*, in comparison of the *Constables* or *petty-Constables*, that be in the Towns or Parishes within their Hundreds or Franchises, whose duty is likewise to maintain the Peace, within the severall limits of their Townes or Parishes. And of these *high Constables* there were to be, and were anciently, two in every Hundred, but at this day there is but one in many Hundreds. The other sort of *Constables*, are the *petty-constables*, or the *under-Constables*, who
are

are only for some part, as for a Town, Parish, Village, Tything or Hamlet within the Hundred (for every hundred hath his *high-Constable*, and every severall Tything within the Hundred hath his *petty-Constable*, *Tythin-man*, or the like within it,) so that the Command of the *petty-Constable* is only in one part of the Precinct of the *high-Constable*, but otherwise for his Authority, by the ancient Common-Lawes; his Office (as far as his Precinct doth extend) is the same with the Office of the *high-Constable* over the whole Hundred. The *Tything-man*, *Borsholder*, *Borrow-Head* or *Head-Borrow*, *Third-Borrow* and *Chiefe-Pledge*, or by whatsoever names they be called in any Townes, Parishes, Tythings, Burrowes, Hamlets or other places, and their Offices are in effect, in most places, but one and the same: For in some Countie this Officer is called by one name, and in other Countie by another name; as in *Kent* he is called *Borsholder*; in *Warwick-shire* *Third-Borrow*, and in other places he is called *constable*, and in some places he is called *Tything-man*; for he that is called and sworn the *Tything-man* of any Place, is (in effect) the *Constable* of the Place: and therefore in such places, for the most part, there is no other Officer called or sworn by the name of a *Constable*; for, as *petty-Constables* about the beginning of the reign of *Edward the third*, were devised in Towns and Parishes for the aid of the *Constables* of the Hundred, so afterward *Borsholders*, and such like, were used as *petty-Constables* within their own Tythings and Burrowes. But if it be so (as it is in some few

few places) that there is one *Constable* for the Common-wealth, and there is also one or more *Tything-men*, and the *Constable* doth execute all the Office, and the *Tything-men* are but as attendants on him, and seem to have but little power; or it be as in some places, the *Tything-man* is to doe service to the Lord of the Mannor, rather than to the Common-wealth, and he is a customary *Tything-man* chosen at the Lords Court. Or if it be so that there are two or more *Tything-men*, and one of them is for the Common-wealth, to execute the Office of *Constable*, and is alwayes chosen at the Leet, and this *Tythingman*, time out of minde, hath been used to doe nothing about the Office of the *Constable*, but to doe other things; in these Cases the custome of the place may and must be continued, and such *Tything-men* shall not be compelled to doe more than by custome they have used to doe: Howbeit otherwise, and in all other places, all these Officers are comprehended within this word *Constable*, and all these Offices are contained within this Office.

S E C T. 2.

Of the choyce and swearing of High-Constables, and Petit-Constables.

THe *High-Constables* are and may be chosen and made, either by the Justices of the Peace, at their quarter Sessions, or at the

the Leet, and there, eyther by the Steward of the Leet himself, or by the presentment of the grand-Inquest, in the Leet, as the course and custome of the place is : And these were heretofore chosen and sworn in the Sheriffes turn. The *Petty-Constables* are and may most properly be chosen by the Steward of the Leet himself, or the Presentment of the Inquest in the Leet ; But these also are chosen by the Ju- *Dalt. Just. of*
 stices of the Peace at their Quarter-Sessions. *P. 37. 38.*
 And all these Officers are and may be chosen for one or two years, according to the custome of the place. And when they are chosen at the Quarter-Sessions, or at the Leet, they doe usually take their Oathes therewhere they are chosen ; or they may, and sometimes they doe *Resol. of the*
 take their Oathes before one Justice of Peace, *Judges.*
 at another time and place. A *Petty-Constable* also in some speciall Case may be made and appointed by one Justice of Peace, and that out of Sessions, as in case where one that is chosen *Constable* doth refuse the Office, or one that is made *Constable* is removed out of his Office, or is dead ; in these cases, in respect of the necessity, and for a present supply, one Justice of Peace alone may Elect and Swear a new *Coo. 8. 41. 42.*
 Officer, and then especially when the Quar- *Titz. off. Just.*
 ter-Sessions, and the Leet are far off, and not *P. 201.*
 to be kept in a great time after : And as touch- *Lamb. in the*
 ing this matter these things are to be known. *Const. duty 10.*
 1. Where the custome of the place is, for *11. Dalt. Just.*
 the Jury in the Leet to choose these Officers, *P. 322. 323*
 there they may and must be chosen still ; for *18 H. 6. 13.*
 this is a good way and custome, and the best *21 Ed. 3. 2. 12 H.*
 way of choosing these Officers ; but where the *7. 2 H. 4. 15.*
 custome *Marb.*

custome is otherwise, there it may be otherwise.

Cap. 10. Fitz.

Leet in toto.

Marb. cap. 10.

2. Which way soever they be chosen, there must be great care had that those that are chosen be fit persons to execute the Office; and therein these things must be observed. 1. The person chosen, must be a Lay, and not a Clergy-person, for all Clergy-men are exempt from this service, as they are from attendance at the Leet; and therefore if any such person shall be chosen to this Office, he may get himself discharged by a Writ; whereof see afterwards. 2. The party chosen, as he must be a lay person, so he must be a lay-man, not a lay-woman, and therefore a widow or maid, albeit she keep House of her self, and dwell in a House whose owner hath been used to serve in this Office, is not to be chosen to this Office, no more than she is to do suit to the Leet. 3. The party chosen, as he must be a man, so he must be *idoneus homo*, i. e. a fit man, & that first for his knowledge, that he doth in some good measure understand what he doth and ought to doe. And therefore a man that is *non compos mentis*, as an Ideot or mad man, an Infant, or the like, cannot be a fit man. 2. He must be fit for his honesty, that he may be likely to execute his Office truly without ill affection or partiality, and therefore it seems a scandalous liver, a malicious and contentious man cannot be a fit man. 3. He must be fit for his ability of Body and Estate. And therefore an old, weak, sick, or otherwise, impotent man; or a poor needy man that lives only by his labour, cannot be a fit

fit man. It was therefore by speciall direction from the King, in *An. Dom. 1630.* given in charge, that the *constables* in all parishes should be chosen of the able sort of parishioners; and that the Office should not be put upon the poorer sort, the which if it were well observed, would no doubt much further the execution of Justice through the Nation. And if because the common course is every where to put these Offices upon the meaner sort of men, the more able sort doe think themselves thereby exempted, they are therein much deceived; for it is not much to be doubted but that all persons that are bound to doe tuit in the Leet, are bound to serve in these Offices, that are after a sort appendant to the Leet; and therefore if any such person be called and chosen thereunto, he must and will be compelled to execute the same. Howbeit it is deemed an unfit and indiscreet part to elect any to these Offices, that in respect of their other Offices, Callings or Professions, are presumed to have so much other imployment that they have not leisure to attend upon this so much as is required. And hence it is that the Justice of Peace, Sheriffs, Lawyers, Attornies, and such like Persons, are seldome or never chosen to these Offices; For if any Steward or Ju-y in a Leet should be so indiscreet as to choose any such men to these Offices, the Justice of Peace, upon complaint to them hereof, will no doubt be so discreet as to discharge them again, and elect others in their place; for he cannot be fit for that Office which he hath no leisure to wait and at-

tend upon : But otherwise it is not only lawfull, but convenient also, that these Officers be chosen, in all places, of the abler sort of men, And therefore it hath been of late resolved by the Judges, That if a man had made himself one of the Kings servants extraordinary, that this would not exempt him from the execution of this office, but he must have been made *constable* notwithstanding. 4. An Infant under the age of twenty one years may not of right bee compelled to serve in these offices. And yet if such a one be chosen and sworn, it seemes he may execute the office as another man may doe : And therefore if a young man of the age of twenty years, or thereabouts (especially if he be such a one as hath the growth wisdom, and courage of an elder man, as sometimes it falleth out) be chosen to this office, he shall doe well to take it upon him and execute it. An old man also aged sixty, or thereabouts, (especially if his strength of body and minde be not much abated) may be compelled to serve in these offices. 5. If a man live within one Hundred or Tything, and have land only within another Hundred or Tything, he may not be chosen to serve in this office in the place where his land is ; for if he have no House upon his Land, it seems neither he nor his Tenant is bound to serve in these offices at all, in respect of the Land. For men are bound to serve in these offices in respect of their Persons and Resiency, and not in respect of their Land : But if he have a house upon his land, and a Tenant dwelling in it, and he be a sufficient man and able to serve the office, he

he may be chosen and made to serve it, but not the Land-lord, for perhaps he may be chosen to this or some other office in the place where he dwells, and a man can doe service with his body but in one place at one time. And yet if the Case be so that a man hath two severall Houses in two severall precincts, and within severall Leets, and he doe live sometimes at the one house and sometimes at the other house, in this case he may perhaps be made an Officer at either of the Leets, within either of the places, if he be there dwelling at the time when the Leet is kept; for a man may doe corporall service at two places, at severall times. But if two Tythings be within one Leet, and one man hath houses in both the Tythings, in this case it seemeth doubtful, whether albeit he doe live in the one Tything, he may not be compelled to serve in this Office for his House in the other Tything, especially if the Tythings be neer, and he keep no Tenant in his House fit to undergoe the Office when it shall come to his turn; wherein, as in all other such like cases a due consideration must be had of all circumstances.

3. By that which hath been said it may appear, then how unreasonable a thing it is, that these Offices should follow the Houses, or that two or three in a Tything, and no more, should alwaies execute the same (as in some places hath been used) and therefore it hath been well and wisely altered by the Order of the Justices in some if not in all places. *Removing of a Constable.*

4. If there be a man unfit, for any of the

causes aforeſaid, choſen and appointed to this Office in a Leet, either by the Stewards nomination, or by the Preſentment of the Jury, or by one Juſtice of Peace, only, out of ſeſſions. ſuch a man may be removed and diſcharged again, by Order of the Juſtices of Peace, at their ſeſſions, and another man more ſit may be by them, then and there, elected and ſworn in his room that is ſo removed. But if the man elected and made *Conſtable* in a Leet, be a ſit man, the Juſtices of the Peace may not remove him and appoint another : And ſo it hath been agreed by the Judges. And yet if the Juſtices of the Peace ſhall remove ſuch a man choſen in a Leet, that is a ſit man, it ſeems there is no remedy but by complaint to the Lord chief Juſtices, or the Judges of the Circuit, &c. If the *Conſtable* be choſen by the Jury in a Leet, and the man choſen be unſit, and the Steward of the Leet doth perceive it ; in this caſe it ſeemes the Steward himſelf may elect and ſwear another man, more ſit, and reſuſe and diſcharge him that is ſo choſen by the Jury. And it is held alſo ; That in default of the Leet, or otherwiſe, where there ſhall be juſt cauſe, every Juſtice of Peace, *ex officio*, may remove the old *Conſtable* and chooſe and ſwear a new one ; and that for this purpoſe he may ſend forth his Warrant to require ſuch Perſon to come in and take his Oath before ſuch Juſtice of the Peace. Alſo there was (as it ſeems) another way of diſcharging and removing of this Officer, by a Warrant from the King to the Sheriffe of the the County, and to the *High-
Conſtable*

*cuſtome.
Preſcription.*

Constable of the Hundred, whereof see a president in *Daltons Just. of Peace, fol. 322.*

5. No custome or prescription to exempt any man not exempted as before, or to warrant an undue election, contrary to the rules before laid down, will availe or shall be allowed unto any person or Tything.

6. If a man be chosen to this Office in a Leet, and he refuse to take the charge thereof upon him, he may be fined for this contempt in the same Leet. And if he be chosen at the Sessions, or by one Justice of Peace out of Sessions, and he refuse to take his oath, he may be Indicted and fined at the Sessions for this contempt. *Numb. I. Deputy.*

7. A *Constable* chosen and sworn, may make what *Deputies* he will, under himself, to execute his Office; for there is no doubt but in time of sicknesse, and at other times also he may, if he will, execute his Office by Deputy, but the Officer himself must expect to answer for all the mis-doings of his *Deputies*. And if one man be chosen an Officer, and he desire to have a Deputy, and to have him sworn and allowed, if the Deputy be sufficient, and be allowed and sworn, in this case the Deputy, and not the other, is the Officer; and therefore the Deputy must answer for himself, and his doings, and not the other for him. But the making of a Deputy in this case, is rather by tolleration than by Law, and so hath it been delivered by the Judges.

The form of the Oath of

a Constable.

You shall swear well and faithfully to serve the Common-wealth, in the Office of a Constable. You shall see the publique Peace to be well and duely kept and preserved, to the utmost of your power. You shall arrest all such persons as in your presence shall ride or goe armed offensively, or shall commit or make any Riot, Affray, or other Breach of the publique Peace. You shall doe your best endeavour, upon complaint to you made, to apprehend all Fellons, Barators & Riotors, or persons riotously assembled; and if any such offenders shall make resistance with force, you shall leue Hue and Cry, and shall pursue them untill they be taken. You shall doe your best endeavour that the watch in your town be duely kept, and that Hue and Cry be duely pursued according to the Statutes: And that the Statute made for punishing of Rogues, Vagabonds, and Night-walkers, and such other idle and wandering persons coming within your liberties, be duely put in execution. You shall have a watchfull Eye to such persons as shall maintain or keep any common bolse or place where any unlawfull games or playes are or shall be used; as also to such as shall frequent or use such places, or shall exercise or use any unlawfull games or playes there or elsewhere, contrary to the Statute. And you shall have a care for the maintenance of Archery according to the Statute. At your Assizes, Sessions, or Leet you shall present all and every the offences committed or done contrary to the Statutes

tutes made and provided for the restraint of the inordinate haunting and tippling in Taverns, Innes, Alehouses and other Victualling-houses, and for the repressing of drunkenness and prophane swearing. You shall true Presentment make of all Blood-shedding, Affraies, Outcryes, Rescues and other offences committed or done against the publique Peace within your limits. You shall well and duly execute all Precepts and Warrants to you directed, from the Justices of the Peace and others in Authority in this County. And you shall well and duly, according to your Knowledge, Power, and Ability doe and execute all other things belonging to the Office of a Constable, so long as you shall continue in the said Office.

So help you God.

Or thus more briefly.

You shall swear that you shall well and duly execute the Office of Constable [or Tything-man] for the Parish [or Tything] of S. for this next yeer [or half a yeer, as the Case is] and untill another be sworn in your room, or you shall be legally discharged thereof.

So help you God.



CHAP. VIII.

Of the Power and Duty of the High-Constable and petty-Constable in common, and one with another ; And of some few things the petty-Constable, and not the High-Constable, is to doe.



Hese Officers and their Offices, as they had a far greater Authority than now they have, so have they been of far greater account than now they be. For by the ancient Common-lawes, before there were any Justices of Peace made, the Constables of every Village had a kinde of Rule within the same Village, and were to keep the Peace there ; and therefore the Constable was called the Ruler of the Village, and it is thought, that at that time the Authority and account of these Officers was much like
to

to the Authority and account of the Justices of the Peace at this day ; and therefore they had then the same Titles of *Conservators of the Peace* given unto them, which is given to the Justices of Peace at this day, *Sed tempora mutantur & nos mutamur in illis* : For this is vanished now, and there is but little signe of it ; for at this day they doe for the most part but execute the Commands of others & yet somewhat there is remaining, as the footsteps of what formerly they had, the which to set forth is our labor in this place : For the opening whereof we shall observe his method. First, we shall shew what all *Constables*, High and Low *Tything-men*, *Boresholders*, &c. may and must doe, and what is their common and equall Duty and Authority, and then next what the *High-Constable* may and must doe more than the *petty-Constable*, &c. and wherein these Officers have a distinct and severall duty one from another; and then we shall shew what the *Constables* of some great Townes may doe in some speciall Cases.

SECT. I.

Certain generall Rules and Cases about these things.

FOR the further cleering and opening of these things, observe these Rules and Cases following.

I. Every of these *Boresholders*, *Tything-men*, Numb. 1. *Borow-heads*, *Head-borowes*, *Third-borowes* and *Lamb*. in the *Chief-p'edges*, hath two severall Offices at this Duty of *Constablers* f. 6.

day, the one being his Ancient and first Office, and the other his later made Office; his first Office began thus. By the ancient Lawes of this Nation (before the comming in of King *William* the Conqueror) it was ordained for the more sure keeping of the Peace, and for the better repressing of Theeves and Robbers, That all free born men should cast themselves into severall Companies, by ten in each Company; and that every of those ten men of the Company should be surety and pledge for the forth-coming of his fellowes; so that if any harm were done by any of these ten against the Peace, then the rest of the ten should be amerced, if he of their Company that did the harm should sic and were not forth-coming, to answer to that wherewith he should be charged; and for this cause these Companies be yet in some places of *England* called *Boroes*, of the word *Borbes*, Pledges or Sureties; albeit in the Western parts of this Nation they be commonly named *Tythings*, because they contain the number of ten men, with their families; and even as ten times ten doe make an hundred, so because it was then also appointed that ten of these Companies should at certain times meet together for the matters of greater weight, therefore that generall Assembly or Court was, and yet is, called a *Hundred*. And it was then also ordained, That if any man were of so evill credit that he could not get himself to be received into one of these *Tythings* or *Boroes*, then he should be shut up in prison, as a man unworthy to live at liberty amongst men abroad; and whereas every of these

these *Tythings* or *Borowes* did use to make choice of one man amongst themselves to speak and to doe in the name of them all; he was therefore in some places called the *Tything-man*, in other places the *Borow-Elder*, now called *Borowholder* in some places, in other places the *Borow-Head* or *Head-Borow*, and in some other places the *Chief-Pledg*, which last name doth expound the other three that are next before it; For *Head* or *Elder* of the *Borowes*, and *Chief* of the *Pledges* are all one, and in some Shires where every *Third-Borow* hath a *Constable*, there the Officers of the other two are called *Third-Borowes*. Moreover in these *Tythings* or *Borowes*, sundry good orders were observed, and amongst others: First, That every man of the age of twelve years should be sworn to the King. Then that no man should be suffered to dwell in any Town or place unless he were also received into some Suretyship and Pledge as is aforesaid: And that if any of these Pledges were imprisoned for his offence, then he ought not to be delivered without the assent of the rest of his Pledges. Again, That no man might remove out of one *Tything* or *Borow*, to dwell in another, without lawfull Warrant in that behalf. Lastly, That every of these Pledges should yearly be presented and brought forth by their *Chief-Pledg*, at a generall Assembly for that purpose, which at this day is called *The view of Frank Pledg*. And of this ancient Office there is yet some shew in our *Leets* or *Law dayes*, and well were it for us if the very substance thereof were thoroughly performed at this day. The latter

CHAP. 8.

Constables.

Numb. 2.

Numb. 3.

Numb. 4.

Numb. 5.

Daltons J. P.

28. 296. Fitz.

Just. P. 30.

Lamb. Just. of

Peace 240.

Numb. 6.

What every man

may doe in the

Constables

Office.

Arrest.

latter Office of these Officers, is in manner all one with the Office of a *Petty-Constable*. Secondly, some things these Officers are to doe in their Office, they are to doe, *Ex Officio*, and by the duties of their places, without any command from others, and for other they must doe them by command from others, and without this they need not doe it, nor can they justify the doing thereof. Thirdly, Some part of their Offices are derived from the ancient Common-Law, and other parts from certain Acts of Parliament newly made, whereby they are further enabled or charged than they were before by the Common-Law. Fourthly, The Office of the *Petty-Constable* and *High-Constable* is one and the same for most things, only the *High-Constable* is over all the *Hundred*, and the power of the other is only in his *Parish* or *Tything*. Fifthly, That whatsoever the Law doth require of these Officers by the duty of their place that it doth give them authority to doe, and whatsoever the Law doth give them authority to doe, that for the most part the Law doth enjoin them by the duty of their place to doe. Sixthly, Whatsoever any other man may doe in those things whereabout the Office of a *Constable* is conversant, the *Constable* may much more doe: And therefore a *Constable* may without doubt part Affrayors, or keep them asunder in a Room of his own or of another mans house, for a time, to prevent mischief. And if he see one coming with a weapon drawn, or the like, intending to take part in the Affray, he may lay hands on him and stay him, and he may Arrest or Imprison one he doth

doth know or suspect to have committed a Fel- *Fellons.*
lony, or one that is apparently about to com-
mit a Felony, or one that hath dangerously
wounded another, or night-walkers that are *Nightwalkers.*
dangerously suspicious, or one that keepeth
or useth any Gunne, &c. contrary to the Sta-
ture, or the like; for in all these cases any o-
ther private man that is no Officer, may doe
the same and justifie it. Seventhly, That *Numb. 7.*
which shall be said of one of these Officers
must regularly be understood of all the rest,
except it be in the cases wherein the office of
the *High-Constable* of the *Hundred*, and of the
head *Constable* of a Town are in some few things
singular. So that as the *Constable* of a Parish is
to labor to keep the Peace, suppress *Fellons*,
execute the Justice of Peace his Warrant, and
the like: So is the *Tythingman*, *Borsholder*, *Bor-*
rothead, *Thirdborow* and chief *Pledge* of a Parish
to doe the same; and this Officer, where he
is called by this name within his Precinct,
hath the same authority in all things as the
Constable hath within his Precinct. Eighthly, *Numb. 8.*
All the cases herein set down touching the of-
fice and dury of these Officers must be so un-
derstood as to give them authority, & to charge
them within their own limits and precincts on-
ly, and no farther; for howsoever these Officers
are bound to look to the Peace, to suppress *Fel-*
lons, execute the Justices warrants, and the
like, yet all this is to be understood within their
own *Hundreds*, *Parishes* and *Tythings* only, with-
in which only they have authority and power;
except it be in some speciall cases, shewed
after; for out of the Compass of their *Hun-*
dreds,

Numb. 9.

Ayde.

Broo. Ry. 3.

Tressp. 431. 3 H.

7. 10. 13 H. 7.

10. 38 Ed. 3. 8.

Dalt. J. P.

303.

Numb. 10.

Breaking of a
house.

Co. 5. 92. Dalt.

J. P. 176. 177.

13 Ed. 4. 9.

3. Jac. 4.

dreds, Tythings and Ransher, they have no more authority than a private man, neither are they more bound there to doe any of the things that doe belong to their office, than any other man is. Ninthly, that in case of pursuit and apprehension of Fellons, and carrying them to Gaole, in case of suppressing Insurrections, allaying of Affrayes, keeping of the Peace, execution of the Warrants of Justices of the Peace, and the like, any of these Officers (when need shall be) may require the ayde and assistance of so many of his Neighbours, or others, of all sorts of able men, above fifteen years of age, as he shall think meet; and so also he may doe in case where a man is hurt and dangerously wounded, for the apprehending and arresting of him that gave the wound; and so also he may doe when a Warrant is sent unto him, for the apprehending of a popish Recusant, by speciall provision of the Statute of 3 Jac. cap. 4. And if any such person being required by any of these Officers, in any such case, shall refuse or neglect to aide them, he may be fined and imprisoned for it at the Quarter Sessions. Tenthly, these Officers, if they cannot otherwise get in, may justifie the breaking open of any mans house in these Cases following (viz.) to search after or arrest any Person for Treason or Felony, or suspicion thereof, that is or is thought to be in the House; to take a man that hath dangerously hurt another, and is fled into the House; to appease an affray that is in the House; to apprehend a Popish Recusant, upon a Warrant to break open the house, and upon

upon a Warrant for the Peace or good Behaviour, by the opinion of *Popham* and *Clerk*, Judges of Assize at *Cambridge*. And so generally in all cases wherein the Keepers of the Liberty are Party, or where they have any Interest in the business. And yet it seems in case of a Warrant to apprehend an Alehouse-keeper for selling without licence, and to carry him to Bridewell upon the second Conviction; it was doubted by the Judges, in their *Resol.* 1633. *Sess.* 11. But in all these cases the Officer, before he doth break open the house, must signify the cause of his coming, and require them to open the dores. Eleventhly, where an Officer hath power to arrest a man, and being coming to doe it, the party doth flye into another County or Hundred; in this case the Officer may presently pursue him whithersoever he shall so flye, and arrest him there, albeit it be in another Hundred or County, out of his own Precinct. Twelfthly, if a man commit a Felony in one County, and be arrested in another County for the same, by the fresh pursuit of the Officer, or some other, pursuing him thither; in this case the Prisoner must be carried to the Gaole of the County where he is taken, and not to the Gaole of the other County: And if a Constable be coming to arrest Affrayors, and they fly into another County, and he pursue and take them there, in this case he must bring them before a Justice of Peace of the same County where they are taken; where the Officer can doe no more than a private man: But if the flight be only into a privileged, or other place in the same

Numb. 11.

Fresh pursuie

Pl. 37. *Dalt.* J.

Peace. 23.

Arrest out of the Officers precinct.

Whether Gaol a Prisoner may be carried.

Numb. 12.

Daltons J. P.

297. 298.

same County; in this case the Officer may in his flesh pursuiv thither take him, and dispose of him as an Officer, and as if he took him within the limits of his own Parish. And if a Constable arrest a man upon a Warrant from a Justice of Peace, and after the arrest, the party (of his own wrong) getteth away and flyeth into another County; in this case the Officer may pursue him and take him there, and bring him back to the same Justice of Peace from whom the Warrant came. Thirteenthly, It is dangerous to oppole or hinder these Officers in the doing and execution of their office: For to kill any one of these officers in the doing of his office, is wilfull murder, and causeth unavoydable death: or to beat or wound any such Officer, in the doing of his office, is a great Trespass to be recompenced with great Dammages: And otherwise to abuse any such Officer, in the doing of his office, is a great Misdemeanour, that may cause the offender to be bound to the good Behaviour. And if the party that is to be arrested shall make resistance, make an assault upon the Officer, or labour to get away, the Officer may justifie the beating, yea and the wounding of him also; or he may imprison him in the Stocks for the same. But upon a Warrant of a Justice of Peace, for the Peace or good behaviour; if the party resist or flye before he be arrested, it is said the Officer cannot justifi: the beating of him; yet if the Officer please he may soon arrest him, for if he be a known Officer, and doe but say to the Party: *I arrest you in the name of the Keepers*

Nmb: 13.

Resisting an Officer.

Co. 4. 40. 9. 96.

Broo. Tres.

296. 21 H. 7.

39. Lamb. J.P.

29. 298. Dalt.

J.P. 297.

Murder.

Trespass.

Good behaviour.

Beating.

Stocks.

Arrest.

pers

pers of the libertie of England, albeit he never lay hands upon him; this is an Arrest opinion of the in Law. And if a Warrant be sent to any Lord Keeper, & of these Officers to Arrest one Indicted of the Lord Chief Fellony, he may justifie the killing of the Justice s. Car. Party, if he cannot otherwise take him, or Murder justifi- being taken, if he resist and fly when he is able.

taken. Fourteenthly, Where any of these Numb. 14.

Officers hath Arrested a man, and hath power Fitz. Cor. 61.

to imprison him, it is held that he may not 288. 328.

imprison him in his own house, or in any o- When an Officer

ther place but the common prison, and the may imprison a

prison also of the same County; for he may man in another

not carry him to the Gaol of another County, place then the

except it be in some speciall Case, as where common Prison.

one Gaol doth serve for divers Counties, or

the like; and yet upon reasonable request, as Fitz. Barra.

because it is night, or because the Officer doth 202. 20 E. 4. 6.

want strength enough to carry him to the 10 Ed. 4. 17.

Goal or to the Justice, or because he doth fear 22. Ed. 4. 35.

a Rescue will be made upon him, or the like; 3 H. 4. 9.

in these Cases the Officer may put the party Kelw. 45.

in the Stocks, and keep him there for a rea- 11 E. 4. 7.

sonable time, viz. untill the morning, if it be Stocks.

at night, or untill he can be conveniently

provided for strength and ayd to carry him to

prison, or to the Justice of Peace. But some Lamb. J. P. 2.

say that an Officer may keep a Prisoner in the cap. 3.

Officers own, or in another mans house, for

a time convenient, and justifie it; whereof

others much doubt: And therefore the safe

way is to keep him in the Stocks, or carry Numb. 15.

him to Prison. Fifteenthly, If the prisoner How an Officer

put in the Stocks be taken for Fellony or su- may use a Pri-

spicion of Fellony; in this case the Officer may soner.

D

lock

Dalt. J.P. 300.

Numb. 16.

10 Ed. 4. 17.

Fitz. Office of

J. P. 201.

Escape.

Numb. 17.

How far these

Officers are

bound to obey

the Warrants of

the Justice of

the Peace.

31 H. 8. 9, 6.

See the Constables

Oath,

Kitch. 47.

lock the Stocks ; and if need be, he may also put Irons upon the Prisoner. And if the Officer be to convey him to the Gaol, or to the Justice of Peace, he may pinion him, or otherwise make him sure, that he shall not escape. Sixteenthly, If a private man, that is no Officer, take another man for Felony, or of suspicion of Felony, within the Precinct of any of these Officers, and bring and deliver the Prisoner to the Officer of the place : in this case the Officer is bound to see the Prisoner safely conveyed to the Gaol : for if he suffer him to escape, he must answer for him : And so also it is, if there be no Officer in the place where the Fellow is taken, and the party carry him and deliver him to the Officer of the next place : for it seems this Officer also in this case, is bound to look to him at his perill.

Seventeenthly, As touching the execution of the Warrant of Justices of the Peace, these things are to be known. 1. In all cases, where any Warrant is sent from any Justice of Peace, to any of these Officers, touching any matter whatsoever, concerning the Office of the Justice of Peace ; it seems he is bound to execute it : And therefore it seems, that in all cases where any Statute doth enable a Justice of Peace to apprehend any Person to be brought before him, or to commit any person to the Gaol, as in the cases of those that keep unlawfull Games in their houses, or haunt such houses, or in the case of men that shoot in, or carry Gunns, or the like ; That in all these cases the Justices of Peace are to command these Officers, and they are to obey them.

2. These

2. These Officers must with all respect, receive the Warrants of the Justice of Peace: *How they must receive and execute the Warrants of the Justice.* for if any Warrant be sent from a Justice of Peace, to any one of these Officers, and he shall shew any neglect or contempt of it, as by casting it into the dyrt, &c. or doe not

with all care, secrecy and diligence execute the same; these are misdemeanors punishable: and for either of these misdemeanors, the party offending may either be bound to the good behavior, or be Indicted and fined. And by the Statute of 27 H. 8. cap. 5. there is a speciall charge laid upon the officers, within the Counties of Wales, That they be carefull to execute the Warrants of the Justices of the Peace there.

3. Let him then consider what he hath to doe: For howsoever this be true that he is not bound to, nor may he dispute the authority of the Justice of Peace, and whether his Warrant be lawfull or not. For if the Justice mistake, and goe beyond his authority in the manner of proceeding in a thing, wherein for the matter he hath Conusance; As if he send a Warrant to him to arrest any man for the Peace or good behaviour, without any cause; or to take a man for a Felony when none is done; yet in these and such like cases the Officer is bound to execute it, and he shall be excused therein. But if the thing whereabout the Warrant is, be such a matter as is out of the jurisdiction of the Justice of Peace, and wherein he is no judge; As if he send his Warrant to the Constable, to levy of the goods of J. S. 10.l. Debt, which he doth owe to him, or owe to another, and all this appeareth upon the Warrant it self;

That in this and such like cases, it is agreed, That the Officer may refuse to execute it, and may (not without danger) obey it. And truly to me it seems necessary we distinguish again between things apparent, and things concealed, and between lesser and more notorious mistakes: and it is reasonable to affirm, that if the mistake and error of the Justice of Peace be set down in the Warrant and be grosse and notorious; As if he send a Warrant to levy of a man 10.l. because he hath sworn an Oath; Or send his Warrant to one of these Officers, to command him to sell the one half of the Goods of a man convict before him for swearing. 6. Oaths, when perhaps these Goods may be worth 100.l. or he send a verball Warrant only, to one that is absent and out of his presence; or send his Warrant to the *Constable* of the Parish of *Dale*, as *Constable* of *Dale*, to levy a forfeiture upon an offender, for an offence in *Sale*, out of his Precinct, or send his Warrant to a *Constable*, to carry *J. S.* to Gaol, because he will not pay him a Debt he doth owe him; That in these and such like cases, the *Constable* is not bound to obey him, or execute it; nor shall he be excused if he doe it. But if the Justice of Peace, where he hath power to send a man to Prison after ten dayes, give Warrant to send him to prison before the ten dayes be out: Or if by an Act of Parliament, he is directed to send a Warrant under his hand and seal, send it only under his hand, or *contra*: And where he is to send it to the *Constables* and *Church-Wardens*, he send it to the *Constables* or *Church-Wardens*;

wardens; et on the other side, and in such like petit mistakes, it seems reasonable to me the Officer should be excused, if he doe execute it; for it is a very hard thing to require of him an exact knowledge of the many Acts of Parliament, so variously and incertainly penned herein, as belong to his Office; and he is in danger to be punished if he doe not execute the Justice of Peace Warrants. So that my advise herein to the Officer is, to consider well of the Warrant; and if he finde the thing to be done, nothing but what is ordinary, and hath been used to be done by these Officers, he is to doe it: but if it be to doe any thing un-usuall, new, strange, and extraordinary, to be well advised e're he doe it. *Co. 10. 76. 6. 54. 14 H. 8. 16. Broo. F. Impr. 8.*

And if a Justice of Peace send a generall Warrant to an Officer, to carry *I. S.* to Gaol, or to bring him before him, and expresse no cause why, it seems to me reasonable in both these cases, the Officer in the doing hereof is excusable. But if the Justice have not good cause for it, he may be sued for it: And so perhaps he may be, though he have cause for the not expressing of it within his Warrant.

If this Officer doe arrest any man under *Warrant*. pretence of a Warrant, let him be sure he have the Warrant first. For if the Officer first arrest, and bring the man to the Justice, and then get a Warrant to doe it, this will not make the arrest lawfull. *5. A* Warrant of a Justice of Peace by word of mouth, is as good in some Cases as a Warrant by writing: As if a Ryor, or other breach of the Peace, be in

That in this and such like cases, it is agreed, That the Officer may refuse to execute it, and may (not without danger) obey it. And truly to me it seems necessary we distinguish again between things apparent, and things concealed, and between lesser and more notorious mistakes: and it is reasonable to affirm, that if the mistake and error of the Justice of Peace be set down in the Warrant and be grosse and notorious; As if he send a Warrant to levy of a man 10. l. because he hath sworn an Oath; Or send his Warrant to one of these Officers, to command him to sell the one half of the Goods of a man convicted before him for swearing. 6. Oaths, when perhaps these Goods may be worth 100. l. or he send a verball Warrant only, to one that is absent and out of his presence; or send his Warrant to the *constable* of the Parish of Dale, as *Constable* of Dale, to levy a forfeiture upon an offender, for an offence in Sale, out of his Precinct, or send his Warrant to a *Constable*, to carry 7. s. to Gaol, because he will not pay him a Debt he doth owe him; That in these and such like cases, the *Constable* is not bound to obey him, or execute it; nor shall he be excused if he doe it. But if the Justice of Peace, where he hath power to send a man to Prison after ten dayes, give Warrant to send him to prison before the ten dayes be out: Or if by an Act of Parliament, he is directed to send a Warrant under his hand and seal, send it only under his hand, or *contra*: And where he is to send it to the *Constables* and *Church-Wardens*, he send it to the *Constables* or *Church-wardens*;

wardens; or on the other side, and in such like petit mistakes, it seems reasonable to me the Officer should be excused, if he doe execute it; for it is a very hard thing to require of him an exact knowledge of the many Acts of Parliament, so variously and incertainly penned herein, as belong to his Office; and he is in danger to be punished if he doe not execute the Justice of Peace Warrants. So that my advise herein to the Officer is, to consider well of the Warrant; and if he finde the thing to be done, nothing but what is ordinary, and hath been used to be done by these Officers, he is to doe it: but if it be to doe any thing unusual, new, strange, and extraordinary, to be well advised e're he doe it. *Co. 10. 76. 6. 54. 14 H. 8. 16. Bro. F. Impr. 8.*

And if a Justice of Peace send a generall Warrant to an Officer, to carry *T. S.* to Gaol, or to bring him before him, and express no cause why, it seems to me reasonable in both these cases, the Officer in the doing hereof is excusable. But if the Justice have not good cause for it, he may be sued for it: And so perhaps he may be, though he have cause for the not expressing of it within his Warrant.

If this Officer doe arrest any man under *Warrant*, pretence of a Warrant, let him be sure he have the Warrant first. For if the Officer first arrest, and bring the man to the Justice, and then get a Warrant to doe it, this will not make the arrest lawfull. 5. A Warrant of a Justice of Peace by word of mouth, is as good in some Cases as a Warrant by writing; As if a Ryor, or other breach of the Peace, be in

his presence, he may by word of mouth command the Officers, or any other, to arrest the offenders, to finde Sureties of the good Behaviour in the first, or Peace in the last Case; and if they refuse to put in Sureties, he may by word of mouth command to convey them to the Gaole. But in other Cases he cannot give warrant to an Officer that is absent and out of his presence; and if he send a Warrant by Message only to an Officer to arrest a man and carry him to Gaole, the Constable may refuse to doe it. 6. If any Warrant come from a Justice of Peace to one of these Officers, to doe a thing, the Officer himself must doe it, and he cannot by word or writing make a Deputy, or command another to doe it, but he may call what ayde he will. 7. In the execution of these Warrants, he is to take great care that he follow the contents of his Warrant, and not to exceed it, for that may be dangerous. And yet this must be understood, that when any thing is commanded, all that doth necessarily conduce to the doing of that thing, and without which it cannot be done, is commanded also; and therefore all that, and so much, may be done, albeit it be not set down in expresse words in the Warrant. And it is said that if a Warrant be made to J. S. and J. K. to arrest J. D. In this Case either of them alone may make the Arrest. 8. A Constable or other sworn or known Officer (albeit he be not known to the party arrested) needs not to shew his Warrants to the man when he comes to serve it upon him, although he demand it, but otherwise it is when he that is no Officer shall

Deputy.

Co. 9. 69. 6. 54.

8 Ed. 4. 15.

Dalt. J. P. 28.

shall arrest a man upon a Justice of Peace warrant, for he must shew his warrant, and the sworn or known Officer also must upon the arrest of the party declare the contents of the Warrant to him. 9. A Constable or the like Officer giveth sufficient notice what he is, when he saith to the Party, *I arrest you in the name of the Keepers of the Liberty of England it is.* *Arrest, what* &c. for this is an arrest in Law, and therefore in this case the party arrested, at his perill, must obey, though he know him not to be an Officer; for if he have no lawfull Warrant, the party grieved may hereupon have his Action of false imprisonment against him. 10. The Officer must take care that he take the very party named in the Warrant, and not another; for if a Warrant be intended against *J. S.* (who is the Delinquent) but it be sent against *J. D.* another man; in this Case the Officer cannot arrest *J. S.* but must arrest *J. D.* 11. If the Prosecutor for the Peace or good Behaviour, after the Warrant sent, agree, yet the Officer must execute his Warrant.

18. When any one of these Officers hath arrested any man for any cause, the Officer must take great heed that he doe keep the Prisoner safe, and not suffer him to escape, especially if the arrest be for matter of Felony; for in this Case, if he willingly suffer him to escape, this offence is Felony in the Officer. - And be the cause of the Arrest whatsoever it will, if the Officer doe willingly or unwillingly, and negligently suffer him to escape, and doe not take him again, he shall be fined for it according to his offence, by the discreti-

Co. 9. 69.

Numb. 18.

Dalt. J. P. 292.

Escape.

11 H. 4. 25.

Stat. 35.

Arrest.

Numb. 19.

Duty of the
Gaoler.

4 Ed. 3. 10.

11 Ed. 4. 7. Bro.

Faux. Impr.

24. 25. 27.

on of those that shall be Judges of the cause ; for Officers in these Cases may require what help they will. And lest any Officer should flatter himself, that he may escape with an easie Fine ; he is to know that the Judges of his fault, may set his Fine equall to the value of all his goods, if his offence so require. And if an Officer take a man upon a Warrant from a Justice of Peace, and then letteth him goe, and taketh his word that he shall come again to him such a day, to goe to the Justice of Peace, and the party cometh not ; this is an escape in the Officer, for which he may be punished, and the Officer (as it seems) cannot now arrest him upon this Warrant. But if the party in this, or any such like Case, escape of his own wrong, without the consent of the Officer, the Officer in a fresh pursuit may take him again, albeit he be out of his sight and out of his Precinct, as is before shewed. Nineteenthly, The Gaoler must receive the Prisoner offered unto him, freely, & without taking any thing of them that bring him. But it is said, that a Gaoler is not bound to receive any Prisoner from an officer immediately, but by a Justice of Peace Warrant. But it is not safe for a Gaoler to refuse such a Prisoner, for if a *constable* may, & in some cases must, & is bound by the duty of his place, to bring some Offenders to Gaol without any Warrant of a Justice of Peace, (as he is) the Gaoler is bound to receive them so brought. And if a man be arrested for Felony, and the *constable* carry him to the Gaol, and the Gaoler will not receive him, it is said the *constable* must bring him back to the Town where he

was taken, and that the Town must be at the charges of keeping him, untill the next Gaol-delivery. But howsoever the Officer must look to him for fear of an escape: and in this case the best way for the Officer, is, to get a Justice of Peace his Warrant to send the Prisoner to the Gaol, and hereupon the Gaoler doubtlesse will receive him. Twentiethly, *In what case an* These Officers, albeit they have power, *Officer may set* divers cases before and after shewed to imprison a man; yet have they not power in any *a Prisoner at liberty again.* case to deliver a man imprisoned again. And *Fitz. Office of* therefore if a *Constable* in case of an Affray *J. P. 130.* commit an Affrayor to the Prison, the *Constable* may not afterward set him at liberty again: Or if he take a man upon a suspicion of Felony and he doth afterwards perceive some cause to make him believe the party apprehended is Innocent in the matter; yet may not the *Constable* deliver him, but he must continue in Prison untill he may be delivered by order of Law, either at the Sessions or otherwise, as the cause shall be. And yet if an Officer shall only put the Affrayors apart into the Stocks, or into some House or Room (as it seems he may) untill the heat be past; in this case the Officer of his own head may set them at liberty again. 21. Every person that shall be *Allowance.* sent to Gaol by a Justice of Peace, having *Charge of a* means and ability of his own, must bear his *Prisoner.* own charges to be levyed of his Goods and Chattels by the *Constable* upon a Warrant to him, sent by a Justice of Peace; and not having goods, then to be born by the Parish where the Fellow is apprehended, by an indifferent

Numb. 20.
What Pleas
these Officers
shall have be-
ing sued.

25 Jac. 12.
7 Jac. 5.

Cells.

Extortion.

Account.

Numb. 21
Expences and
disbursements
of Officers.

different Assessment to be made by the Constables and Church-wardens, and two or more of the Inhabitants, by allowance of a Justice of Peace. 22. If any of these Officers shall be sued for any thing done by them in the execution of their Offices; or if any suit be brought against their Deputies, or any others which in their aide or assistance, or by their commandement, shall doe any thing touching their Offices, this Action must be laid in the County where the thing was done; otherwise the Defendant shall be found *not guilty*, howsoever the case be: And in all Actions brought against them for the causes aforesaid, they need not plead the speciall matter, but may plead the generall issue, and give the speciall matter in evidence. And if the Verdict upon triall pass with the Officer, or the Plaintiff be *Non suit*, or suffer his Action to be discontinued, the Defendant shall recover his double costs sustained in the said Suit. 23. These Officers, & all the rest hereafter named, must take care that they take nothing of any man for any work they do in the execution of their office, more than is allowed them and is their due; for this offence in them is extortion, and punishable by Fine and Imprisonment. 24. These Officers, as well as other, are to give an account to the Parishoners of the monies they doe any way receive: And this, if they refuse to doe, they may no doubt be compelled unto by the Justices of the Peace, at their Quarter-Sessions. 25. And as touching the disbursements of these Officers about the execution of their Office, as for the carriage of Prisoners to Gaol, the conveying of Rogues, and

and the like, whereby any speciall Act of Parliament they are to be allowed it, or any thing towards it, and the means of recovering it is set down; there they shall have the same allowance; and they must pursue that means for the recovery of it. And so in all cases where the offender is sent to Goal by a Justice, there is a means appointed by the Statute of 3 Jac. 10. by the sale of the offenders Goods, or a Rate by the Parish as before. But in other cases also, it seems very reasonable that they should be allowed it again from the Parish: and if the Parish will not allow it, perhaps the Justices of Peace, upon the complaint of the Officer, may devise some way, and doubtlesse they will doe what they can to relieve him. And therefore he is to call his Neighbours, or as many as will come, and with them, or without them, if they refuse make an equall Rate sufficient to pay all his necessary charges and expences in the doing of his Office; and it will be good to get a Justice hand to it, if he can: and if any refuse to pay it, let him complain to the Justice of Peace, who will either binde him that refuseth to the Quarter-Sessions, or finde some other way to bring him to reason. But as touching their ordinary expences, for meate, drink, &c. in their travells; for this it seems, there is no remedy, but that the Officers themselves must bear it: Howbeit in these things the custome of the place is to be continued.

SECT. 2.

Of the Office of the High and Petit-Constable, about the Peace.

THe authority and duty of all these Officers, *High-Constable*, and *Petit-Constable*, by the Common-Law, consisteth much about the Peace of the Common-wealth; and herein in three things. First, In foreseeing that nothing be done that tendeth either directly or by means, to the breach of the Peace. Secondly, in quieting or pacifying those that are occupied in the breach of the Peace. And thirdly, In punishing such as have already broken the Peace.

Breach of the Peace, what it is.

And here, lest any man should be deceived in the not understanding what is meant by the breach of the Peace, it must be known, That by the breach of the Peace is to be understood, not only that fighting which we commonly call the breach of the Peace, but also that every Murther, Rape, Man-slaughter, and other Felony whatsoever, and every Affraying or putting in fear the People of this Common-wealth, whether it be by unlawfull wearing of Armour, or by assembling of people to doe any unlawfull act, are taken to be disturbances and breaches of the Peace.

Numb. 1.

For the better preventing of the breach of the Peace, and that nothing be done against it. First, Any one of these Officers may, without

out Warrant from a Justice of Peace, *ex officio*, Against suspected and of his own authority, by night or day, arrested persons, at rest suspected persons, strangers, and others, Nightwalkers that walk in the night, and sleep in the day, or and the like. haunt Bawdy-houses, or other suspicious places; Stat. of Winchester shall doe, or commit any outrage or misdemeanor: For if a Constable be informed of a lewd man and woman that are together and about to be incontinent and lewd, he may take with him so many of his neighbours as he will, and arrest the same man and woman, or any such disorderly person, and bring them to a Justice of Peace to be bound to the good behaviour. 13 Ed. 1. 4. 5 Ed. 5. 14. 13 H. 7. 10. Fitz. Office. 3. P. 200. 1 H. 7. 7. Bro. Tres. 432.

2. And the better to apprehend such persons, they are to see and take care that Watch and Ward be duely kept. And for this, these things are to be known. 1. None but Inhabitants of the same Town are compellable to Watch and Ward. 2. It must be by men of discretion, able bodies, and sufficiently armed. 3. It must be by turn, or by the house, according to the custome of the place. 4. The Constable, *ex officio*, is to order it, and he may enlarge it as there is occasion; but he cannot change the course of it at his pleasure, and make some Watch, and excuse others. 5. If any neglect or refuse to doe his duty, the Constable may present this default at the Assizes or Sessions, or complain of it to a Justice of Peace: And some hold the Constable may put him in the Stocks for his contempt. 6. This Watch is from Assention to Michaelmas, and must be from Sun to Sun; And the Warding then (in congruity of reason) must be the rest of the twenty and four hours day. 7. These Watch and

Dalt. J. P. 60.
Winch.

13 Ed. 1. 4.

5 Ed. 3. 14.

Hue and Cry.

and Wardmen, are to pose all men, to arrest and secure till morning Rogues and others suspicious, and them to bring to a Justice of Peace to be examined : Or, if they will, they may deliver them to the *Constable*, who must take care of them. And if any resist them, and goe away, they may send *Hue* and *Cry* after them : and upon this any man may arrest them. 8. For default of this Watch and Ward the Township may be punished. So that all that the *Constable* hath to doe in this case is, to appoint it in an orderly way, who when, and how it shall be done, and to see it be done ; and if it be neglected to complain of it, and get it punished. The Watch-men thus appointed, may have from the *Constable* these or the like instructions, (*viz.*)

Watchmans
charge.

To keep the Peace amongst themselves ; to continue their Watch diligently untill the Sun rising, without noyse & disturbance of the Inhabitants : That they abide and frequent the common passages ; but so as they have regard also to all other places : That they examine all such persons as they shall see stirring, or shall passe by them, what they be ? and whence they come ? whether they goe ; and the reason of their late travell, or being abroad ? and if cause of suspicion be found in them, to stay them ; if they obey not, but resist, to constrain them by force, and to beat them, if it cannot be avoyed, for resisting the Peace of the Nation ; if they be too strong, or fly them, to levy *Hue* and *Cry* for the apprehending of them, and to set them in the Stocks untill the morning ; and then to have them

them before some Justice of Peace, to be dealt withall according to Justice : To resort to such places where they behold any Candle or fire-light, to know the cause; or where they here any noyse of People especially in Taverns, Innes, and Ale-houses; and finding any there, to admonish them to depart; and refusing, to compell them, as aforesaid. And if any unknown Person, hors-man or foot-man, shall pass by them, or that shall drive any Cattel, Horse, or the like; or that shall carry any burthen on Hors-back, Cart, or otherwise, to stay them till the morning to justify themselves, unless they can render good account, both of themselves, their company, and carriage: And if any Post come by them, to know what number they have, lest Offenders also pass under that pretence. And the *Constables* are also to be aiding and assisting to these Watchmen upon all occasions.

3. In an action of Trespass of an assault and *Numb. 3.*
battery, the Defendant pleaded, that there were *Night-walkers*
divers Felonies committed in those parts where he dwelt; and he being watching in his house came into the high-street, where the Plaintiff was at eleven of the clock in the night; and the Defendant came unto him and laid his hands in peaceable manner upon him to see his face, and when he perceived he was a true man he left him and departed. And this was allowed to be a good justification; for by the Statute of *Winchester* Watchmen may arrest *Night-walkers*, and may appose them from whence they come, and what they be. Also any other man may arrest *Night-walkers*, because

Numb. 4.

Against persons of the Liberties, Servants and Ministers of that ride armed Justice in executing Precepts or their Offices, or make Insur- or such as shall assist them, and except it be rebellion.

2 Ed. 3. 3.

2 R. 2. 13.

Fitz. J. P. 202.

cause it is for the good of the Common-wealth:
4. If any Person whatsoever, except the *Keepers* of the Liberties, Servants and Ministers of that ride armed Justice in executing Precepts or their Offices, or such as shall assist them, and except it be rebellion, in pursuit upon Hue and Cry made to keep the Peace (and that in places where Acts against the Peace doe happen) shall be so bold as to goe or ride armed by night or by day, as to carry any Daggs or Pistols; or to be apparelled with privy Coats or Doublets in any Faires, Markets, or any other place to terrify the people; And if any doe so, or if any great Attembly, Riot, or Rumor be made in any outrageous manner, in nature of an insurrection. In the first of these Cases the *high-Constable* or *petty-Constable* may, and must take their Armer from them, and seize it to the use of the *Keepers of the Liberties*, and arrest the parties, and carry them to a Justice of Peace, or (as it seems) to Gaol, there to abide during the pleasure of the *Keepers of the Liberties*. And in the last of these Cases, they may and must take with them the power of the Counry, and suppress them, and arrest the Offenders, and carry them to a Justice of Peace, or commit them to Prison till they put in Sureties for their good behaviour.

Seize Armes.
Arrest.

Power of the
Counry.

Ayde.

Numb. 5.

Against him

that doth threaten Murder.

Fitz. Bar. 202.

2 Ed. 4. 36. per.

Briam, 3 H. 4. 9.

5. And if one man doe threaten to kill another, and especially if he lye in wait o to doe, and he who is so threatened doth complain to any one of these Officers (being Officers of the place wherein the party threatening is abiding or doth dwell) and intreat him to arrest the party to finde Sureties of the Peace: In this

this case the Officer may and must arrest him forthwith to finde Sureties; and therefore carry him before a Justice of Peace; or being there, to get Sureties, the Officer may presently carry him to Gaol. But some say that this threatening must be in the hearing of the Constable, or else that he cannot doe it. But if the thing be true, it seems in both cases alike: And in such Cases the *Constable*, if the party have no Sureties ready, may carry him to Gaole, of his own Authority.

2. AS these Officers are to take care to prevent the breach of the Peace before it be; So are they to take care to suppress, and alay it when it is: And therefore in case of Affrayes, they are to labour carefully and speedily to appease them; wherein these things are to be known. 1. If any of these Officers shall see a man presently bent, and in fury going about to breake the Peace, as by using of hot words, or the like, by which an Affray is like to grow, he may, and must straitly charge and command the Persons at debate, in the name of the *Keepers of the Liberties of England*, to keep the Peace, &c. and to avoyd upon pain of imprisonment: And if there be nothing but words between the parties, it seemes the *Constable* can doe no more but this, and may not lay hands on them, unless they goe further. But 2. If the parties at variance will not hereupon obey the Officer, and depart, but goe on further to threaten to beat, hurt, or kill, and especially if either of them draw weapon, or give, or attempt to give any blow; then the Officer may, and must keep them assunder by force; and

E

for

Numb. 6.

To suppress the breach thereof in case of Affrayes.

Fitz. J. P. 130.

Lamb. J. P.

173.

Dalt. J. P. 28.

29.

22 Ed. 4. 35.

21 H. 7. 21.

13. H. 7, 10,

Ayde.

21 H. 7. 21.

Fitz. J.P. 130.

Imprisonment.

21 H. 7. 21.

Lamb ^{et} J. P.

141. 142.

*Officer may
beat, &c.*

for that purpose, if there be need, may use his his own weapon, and may call and require others to help him, who at their perils must doe so. 3. And if the affrayors shall still proceed, and goe from words to blows, the Officer and his assistants may by force apprehend the Affrayors, and cause them to render themselves, and put them in the Stocks, or in some other Prison or place untill the heat be past; or if it be in the night, untill the morning; or they may carry them unto the next Gaole, or to a Justice of Peace. 4. If the Affray be great and dangerous, the Officers may make Proclamation that the Affrayors shall depart; and if they refuse or resist, they may commit them to prison in the Stocks, or other fit place, till the heat be over, or that they can carry them to a Justice to finde Sureties, especially if any man be hurt in the Affray. 5. If the Officer, or any of his Assistants in this service shall be hurt by the Affrayors, they shall have good remedy against the Affrayors. But if the Affrayors be hurt by the officers or their Assistants, in doing of their duty herein, the Affrayors shall have no remedy against them: For if the Affrayors shall resist, and refuse to obey the Officer; In this case he may beat or wound them and Justifie the doing thereof. And yet if another man (that is no Officer) of his own head shall take upon him to part Affrayors (as he may) and in the parting of them he hurt one of them; In this Case he that is hurt shall have an action of Trespass against him that did hurt him. 6. If he that doth make the Affray, when he doth see the Officer coming to arrest him, shall

shall flye into a house, the Officer may in the *Breaking open* fresh pursuit of him, break open the dores of a house, law- upon him to take him, and justifie it; and if full.

he flye out of the Officers libery into another *Fitz. J.P. 130.* *Hundred* or Tything, or into a Franchise in *Dalt. J. P. 28.* the same County, when he seeth the Officer 29.

coming to arrest him, the Officer may upon *Lamb. J. P.* a fresh pursuit follow him, and take him there; 143. 144.

and so may he also where he doth flye out of *Arrest out of* one County into another; But in this last *his Precinct.* case, when the Officer doth apprehend the par-

ty in another County, he can doe no more with him than a private man may doe (*viz.*) carry him before some Justice of the Peace of that Countrey wherein he is taken, to cause him there to finde Sureties for the Peace. *Fitz. J.P. 130.*

7. If two men be fighting together, in either of their own or another mans house (the dores being shut) in this case the Officer, if he cannot otherwise get in, may break open the dores, to get in to keep the Peace, albeit neither of the parties be hurt. 8. In these cases before, the Officer may and ought to carry them before some Justice of the Peace, to finde Sureties for the Peace, because they have broken the Peace already, and are meet to be bound that they shall not break it again. 9 *Ed. 4 26.*

9. It is said that the *Constable* carrying the *Aff- 10 Ed. 4. 17.* frayors to Gaole, may himself take bond of them, to the use of the *Keeper of the Liberty*, for the keeping of the Peace (the which bond he is to certifie into the Exchequer or Chancery, from whence the Process is to be made if the Peace be broken) and thereupon deliver them; and that if they will not

finde Sureties, the *Constable* may imprison them untill they doe finde Sureties : But this is not used any where ; It is theretofore safe to carry them to a Justice of Peace. 10. When the Officer doth carry the Affrayer to Prison, or to a Justice of Peace, so that he is bound over to appear at the Quarter-Sessions, or Goale-delivery to answer it ; in these Cases the Officer must see then that he appear at the next Quarter-Sessions of the Peace, or the next Goale-delivery, there to object against the Affrayer, as there shall be cause.

21 H. 7. 21.

5 H. 7. 7. 6.

Lamb. J. P.

14.

Fitz. J. P. 14.

11. If one make an assault and affray upon the Officer himself, he may take the Parry & carry him to a Justice of Peace or to prison, as he may in case of an Affray done upon another man.

12. If an Affray be made in the presence of the *Constable*, and he doe not his endeavor to pacifie it, he may be fined for it at the Sessions, according to the discretion of the Justices : But if the Affray be in another place, and notice be given thereof to the *Constable*, and he doe not his best to pacifie it, it is said he shall not be fined for this : but let this be doubred, and *Constables* advised not to trust to it, but to doe their utmost to suppress all Affrays and keep the publique Peace every where within their Precincts. And in this Case every private man, being present, and during the time of the Affray, may and must doe his best to quench and alay it. But he may not hurt or imprison the Affrayers unless some man be hurt in the Affray.

Numb. 7.

After the peace
is broken.

3. For the duty of these Officers after the Peace is broken. If the Peace be but newly
and

and freshly broken by an Affray, & the officer *Bro. Faux.*
have notice of it, it hath been said he may *Imp. 6.*
arrest the parties, and carry them before a Ju- *Fitz. J.P. 131.*
stice of Peace, to finde Surety for the Peace, *Dalt J.P. 29.*
because they have broken the same already, *38 Ed. 3. 6. 12.*
and are meet to be bound that they shall not *Aff. 56.*
thenceforth break it again : But it seems *10 H. 7. 10.*
this is not Law at this day, for it hath been *Poult de pace*
resolved that a Constable *ex Officio*, and with- *13.*
out a Warrant from a Justice of Peace, may
not imprison any man for an assault or affray, —
except he be present at the affray himself.
In Skarrets Case, Hll. 37 Eliz. C B. But in
all Cases where an Affray is past, this Officer
may by Warrant from a Justice of Peace, take
and imprison the Affrayors, and in case where *Arrest.*
one is hurt in the Affray, and thereby in peril
of death, he may *ex Officio*, and without any
such Warrant arrest and imprison the Affray-
ors : For in this Case when one hath received
a dangerous hurt in the affray, the officer after
the Affray is past, may and must arrest and
imprison him that did the hurt till he give
Surety, to appear at the next Gaol-delivery ;
or otherwise he may, with less labor than to
carry him to Gaole, carry him to a Justice of
Peace, who ought to take such order as the par-
ty may give such Surety : For the Fact may
fall out to be Felony, if he that is hurt happen
to dye within a year and a day next after the
hurt done. And if the Officer doe not so, or
suffer such a Person to escape, he may be deep-
ly fined for it. And in this Case also it is said,
that the officer may, after he hath arrested him
that gave the wound, keep him a while in some

Numb. 8.

Against persons and these Officers of the Village have notice of committing Fel- them ; it is their duty to gather men together, lony, or suspect and to apprehend them: And if any Fellow be of Fellony.

Fitz. J.P. 201.

1 R. 3. 3.

Lamb. Office of

Const. 17.

other place out of the common Prison untill it may be known whether the party wil live or not.

If Fellons or Murderers be in the Village, taken, it is the Constables office to see him conveyed safely to Gaol: And any other man, as well as an Officer may arrest and keep in hold such a man as he doth know to have committed any Fellony. And as touching persons suspect of Fellony, it is said, That if any man doth suspect any other man of any Fellony that he hath committed, and doe declare the same to any one of these Officers, that thereupon he may, if the party suspect be within the limits of his Office, arrest and bring him (& with him he shall doe well to bring the other party that did suspect him) to the Justice of Peace to be examined. But as touching the arresting of another man upon the suspicion of a third Person, it seems the Law is otherwise; For it is the opinion of the whole Court, in the 17 *Ed.* 4. 5. and in 5 *H.* 7. 4. That one cannot imprison another man upon the suspicion of a third man for Fellony, unless he himself have some cause of suspicion also. And that one man, albeir he be an Officer, cannot justifie the imprisonment of another man suspected by a third man, and at his commandement that doth suspect: And of this opinion was Mr. Justice Bridgman, and the whole Court of the Marches of Wales. And therefore it was held there, that if I suspect a man for Fellony, and give notice hereof to the Constable, that he cannot arrest him

11 *Ed.* 4. 4.

Bro. Faux.

Impr. 24.

him upon my suspicion. And yet when I have arrested him upon mine own suspicion, and delivered him to the Constable, that in this case the *constable* must look to him at his peril. And if the Constable from this doe receive a suspicion of him (as he may) upon a fame or any flight report; I think it reasonable and justifiable in him to arrest him. But as touching this matter, and for the cleering of this point, these things are to be known.

1. That any one of these Officers, or any other private person whatsoever, having cause to suspect another of a Felony committed by Murder, or Theft, may himself arrest and apprehend such person suspect; but herein he

(whosoever he be) must take heed to three things. 1. That there be a Felony committed, or at least confidently reported to be committed; for otherwise there can be no good cause to suspect any man. 2. That there be some cause to suspect the party arrested more than another. 3. That after the arrest, the party that doth arrest him, doth carry him to a Justice of Peace or to the common Gaole, to the end that the party accused may be Indicted or acquitted at the next Sessions, &c. Or if it be a private man that doth make the arrest, that he doe deliver the party arrested to the Constables, &c. of the place.

2. These, or any, or either of these, are held to be sufficient causes of suspicion. 1. That the person suspect is Indicted for the same Felony. 2. If the Felony be a Murder; that he was present at the time of the Murder committed with a Sword drawn in his hand. 3. That

causes of suspicion of a man for Felony.

29 Ed. 3. 39. 9.

4 H. 7. 4.

7 H. 4. 35.

27 H. 8. 21.
 14 H. 8. 16.
 2 H. 7. 15.
 11 Ed. 3. 44.
 21 H. 7. 27.
 Fitz. J.P. 201.
 Numb. 9.

the person suspect, is a person of evil name ; or is a Vagrant in the Country where the Fel-
 lony was done. 4. If the Felony be a Rob-
 bery, and the party suspect is found with some
 part of the goods in his hands. 5. If one ap-
 prehended for the same Felony, hath taken his
 oath upon a Book, that the party suspect is one
 of the Fellons. 6. That it is the common
 fame and report of the Country, that the party
 suspect did the fact. 7. If the party suspect
 doth flie upon the Felony committed. 8. If
 there be a *Hue and Cry*, out against the Fellow,
 and the person suspect and apprehended, is
 such a person as is described by the *Hue and*
Cry; or if the Felony be for stealing of Car-
 tel, and the party suspect is taken driving such
 Cartel as are set forth by the *Hue and Cry* to be
 stolln; And yet hereby an honest man may
 be apprehended; for a *Hue and Cry* may be
 raised where no Felony is done. But in this
 case he that raised it may be punished, and he
 that doth arrest the party is to be excused; or
 there may be no other cause to suspect this man
 but the possession of the goods, and he might
 come by them lawfully; howsoever this is
 cause enough to give him that doth arrest
 ground of suspicion. 9. If *J. S.* would have
 arresteh one that had robbed him, and the
 party suspect forbid him, and saith he shall not
 arrest him; this is sufficient cause to make him
 to be suspected for an accessary. And there-
 fore in all these and such like cases a man may
 justifie the arresting of the party suspected.

Tryal.

3. What shall be said a sufficient cause of sus-
 pteion, what not, & shal be tryed by the Judges,

4. It

4. It is the duty of these Officers, to doe their utmost indeavour, with all diligence, to finde out, and apprehend Fellons: And if there shall be herein any neglect found in them (especially if it be for favour or reward) they may be grievously punished. And for this cause they may, and they must after a Felony is done, either by, or without the Warrant of some Justice of Peace, make diligent search for him that did it, in all such places within their Liberty as they shall understand to be likely to finde him in; for it is the chief part of their Office to repressse Felony, and albeit it be a mans house he doth dwell in, which they doe suspect the Fellow to be in, yet they may enter in there to search; and if the owner of the house, upon request, will not open his dores, it seems the Officer may break open the dores upon him to come in to search, And so also it seems the Officer may search for goods stolln, as he may for the Fellow himself that doth steal them; and if the Officer, upon search, cannot finde the Fellow, it is his duty to raise a Hue and Cry and send him, directing it to these Officers, whose duty it is carefully to pursue them as soon as they receive them; and it is the duty of all other men, being called upon by Officers, and at the Cry of the Country to be ready to pursue and arrest Fellons, and upon the Hue and Cry any man may arrest him that is taken with the things (be he never so honest) and he may deliver him and the goods to the Constable of the Town to be kept safely.

*Search.**Numb. 10.**Breaking of a
house open, law-
full,**Hue and Cry.*

5. If they be about to arrest any man suspected

suspected

Ad.

suspected of Felony, they may require the aid and help of others, both to arrest and carry to prison the party suspected; and the parties required must in this case help them at their perill.

10 Ed. 4. 17.

Fitz. J.P. 21.

*Carrying of a
Prisoner to
Gaole.*

6. If a private man arrest another man (as he may) upon his own suspicion, and then deliver him to the Constable of the place, he must then look to him that he suffer him not to escape, at his perill, but that he bring him, and the party with him that did arrest him, to a Justice of Peace, or that he bring the party arrested to the Gaole; for in this case the Constable may not refuse to take charge of a Fellow so brought unto him by another: And if there be no Constable of the place where the party is apprehended, and the party that doth arrest, doth bring the prisoner to the Constable of the next Parish, it seems this Constable, in this case, is bound to take charge of him at his perill.

*Seizure of
Goods.*

Fitz. J.P. 201.

Numb. 11.

7. If a man flee for Felonie, the Constable of the Village where his Goods are, must seize them, and keep them safe, and not part with any of them, but so much only as is needfull for the sustentation of the Prisoner, and if the goods be impaired, the Constable must answer for them; and therefore it will be his wisdom to take them by Inventory, and in the presence of honest neighbours.

8. An Action of Trespass was brought by a man for an Assault and Battery of his Servant, whereby he did lose his service three dayes, and the Defendant pleaded that *A* was robbed at midnight of Goods to the value of two pounds

pounds, whereupon the said *A* came to the Constable, and prayed him to search for the *Search*. suspicious persons, and to apprehend and arrest them; and accordingly he did search, and *Arrest*. found the same servant walking suspiciously in the street in the night, and therefore he would have arrested him, but the said servant fled, and would not yeeld to the arrest; and the Defendant, by the Constables commande-

ment pursued and took him. This was adjudged a good Plea in Barre; For when a Felony is committed, the Constable, or any others, upon suspicion of persons that are suspicious, may arrest them; and if they will not yeeld to the arrest, but assault him or them that doth arrest him, they may justifie the beating of him, for that he doth resist the Peace *Beating justifi-* and Justice of the Common-wealth, when he *able*. doth forcibly strive to flie, and not to be justified by it. If a *Hue and Cry* be levied and pursued, that a Horse of such a colour or mark; *Hue and Cry*. 29 Ed. 3. 9.

so many Beasts of such a sort, or age; or so *Pulton de Pace* 12. 5 H. 7. 4. many Sheep of such a brand be stoln, and *Numb. 12*. one is taken leading or driving of the said

Horses, Beasts, or Sheep: In this case it is lawfull for these Officers, or any other man, to stay and apprehend him; and if he that doth apprehend him be not an Officer, he may commit him to the Constable of the place where he is apprehended, and by him to be put in the Stocks, or safe kept until he be delivered by course of Law, though the party apprehended be not a man of evill name or fame, but a man of good credit: for seeing the Law hath by the *Hue and Cry* accused him, he must be by a courle

Arrest.

27 H. 8. 13.

5 H. 7. 4.

2 H. 7. 15.

11 Ed. 4. 4.

a course of Law again acquitted and discharged : And in this case, he that is so taken shall not have an Action of Trespass, Fals-imprisonment, or other remedy, against him that did apprehend him, or against the Constable to whom he was committed, albeit he be afterwards acquit of the Fellony. In an Action of Fals-imprisonment, the Defendant pleaded, That there was a Fellony done, and he suspected the Plaintiff to have done it ; and therefore he arrested him : In this case this was held no good Plea ; for he should have shewed some ground and cause of his suspicion. And in an Action of fals-imprisonment it is no Plea for the Defendant to plead, That it was told him, that the Plaintiff had brought the Cartel to the Town, and put them in a blinde corner, and that there was great cause of suspicion that the Plaintiff had stolln them, whereupon he did arrest him : for suspicion only, without a Fellony committed, is no cause to arrest another. And in an Action of false-imprisonment the Defendant pleaded, That J. S. was poysoned, and that the common voyce and fame of the Countrey was, That the Plaintiff had poysoned him ; whereupon the Defendant apprehended the Plaintiff, and committed him to prison as was lawfull for him to doe. And this was adjudged a good Plea in Barre of the said Action ; for common voyce and fame of the Countrey is cause of suspicion of Fellony when a Fellony is committed : but when there is no Fellony done, it seems this is not cause sufficient to warrant the arresting of such a person. And yet, as before it appeareth, the

the accusation of a man (where no Fellony in truth is done) by *Hue and Cry*, is cause sufficient to warrant the arresting of such a person as is described by the *Hue and Cry*. In an Action of Fals-imprisonment the Defendant did plead, That before the imprisonment, *A. B.* was slain at *C.* and that the Plaintiff was in the 7 *H. 4. 10.* company of those who killed him, at the time *Dyer 276.* of the Fellony committed, and the common voyce and fame of the Countrey at *C.* was, that the Plaintiff was party to the Fellony; whereupon the Defendant finding the Plaintiff at *C.* arrested him for suspicion of Felony, and committed him to the Sheriff, &c. and this was allowed a good and sufficient Plea.

9. If a man doe assault another in, or neer the high-way, to rob him, and he that doth make this assault, is taken and brought to the Constable of the place: In this case the Constable must take him to his ward, and carry him before a Justice of Peace to give sureties for his good behaviour. In an Action of Trespasse of Assault and Battery, and Fals-imprisonment the Defendant pleaded, That the Plaintiff lay in wait in a high-way, to rob such persons as travelled that way, and assaied to rob one *L.* and drew his sword, and commanded the same *L.* to deliver his purse, whereupon *L.* fled, and levied *Hue and Cry*, and this Defendant being travelling that way, pursued the Plaintiff, and took him, and committed him to the Constable to be put in the Stocks, who did it accordingly: and this was adjudged a good justification; for every man may arrest him that doth a Fellony, or him who maketh it apparent that he

Imprisoning him that doth attempt to rob.
Fitz. Bar. 102.
2 Ed. 4. 26.
Numb. 13.
Carrying one to a Justice or to Gaole.

Arrest.

he doth intend and goe about to commit a Fel-
lony, for that he doth thereby manifest him-
self to be a principall breaker of Law and Peace
of the Nation.

Hue and Cry.

10. The Constable is to levy *Hue and Cry*
when there is cause, and to send it East, West,
North, and South; and it is best to expresse
in the *Hue and Cry*, the nature of the thing
stoln, colour, and marks, and to describe the
number of Fellons, their Horse, Apparel, &c.
And this Officer receiving a *Hue and Cry* after
a Fellow, must, with all speed, make diligent
pursuit, with Horse and Foot, after the offen-
dors from Town to Town the way it is sent, and
make diligent search in his own Town: And
the Constable and Hundred both may be pu-
nished for neglect herein. And all other men
must hereupon be industrious to take them.
Hitherto for the most part we have shewed you
nothing but what is of the primitive and im-
mediate authority and duty of these Officers,
and what they may and must doe, *ex Officio*,
without any commandement or authority
from others. But for as much as a great part
of their duty (especially concerning the
Peace) resteth in making of due execution
of the Precepts of higher Officers, and espe-
cially of the Justices of Peace, who be (as it
were) immediately set over them: We are
therefore in the next place to shew you some
part of that which they are to doe in that be-
half.

*In executing of
the Precepts of
others.*

Albeit these Officers be subject to the com-
mandements of the Justices of Gaole-delivery,
of Oyer and Terminer, and of some higher Ju-
stices;

Rices; yea, and to the Precepts of Sheriffs, *Lamb. Const. off.*
 Coroners, and Stewards of Leets, and of other *Numb. 14.*
 Officers in some certain Cases: yet because
 they are called upon most commonly by the
 Justices of Peace, so as at this day their Office
 is for the most part conversant about the exe-
 cution of their Warrants: For if the Justice of
 Peace doth understand by complaint, that any
 man hath stoln or slain, or any Servant or La-
 borour without License hath departed out of
 his Masters service; or any that liveth idly
 or suspectedly, knowing once in what Parish
 he is, he doth write to any one of these Officers,
 to command him to bring this person before
 him, and then he doth examine him, and if he
 finde cause, he doth commit him to some Con-
 stable or Officer to convey him to the Gaole,
 there to abide till the Justices meet at their
 Quarter-Sessions, or at their Gaole-delivery,
 that the Law may either condemn or acquit
 him: And to these Precepts these Officers
 ought especially to shew themselves obedient,
 and then also especially when their Aide is cal-
 led for, to suppress Ryots, unlawfull Assem-
 blies, and such like notorious breaches of the
 Peace. And 1. howsoever it be so, that if a *Fellon.*
 man have Goods stoln, and he doth suspect *Search.*
 that such a man hath stoln them, and he *Dalt. J.P. 237.*
 complain thereof to the Constable, so that now *Numb. 15.*
 the Constable hath cause to suspect him also;
 That the Constable in this case, of his own au-
 thority, without Warrant from a Justice of
 Peace, may search for the Goods and the Fel-
 lon; and if he finde the Goods, seize them; and
 if he finde the Fellow apprehend him: yet for
 the

Search.

Deputy.

Dalt. J.P. 290.
291.

Dalt. J.P. 291.

Coo. 5. 59.

Broo. Faux.

Impr. 2.

Warrant.

Arrest.

Stocks.

the most part the Constable not knowing his authority, or the danger, is so fearfull and remits herein, that he doth nothing until he have a Warrant of a Justice of Peace to provoke and enable him so to doe. And if such a Warrant be sent to him from a Justice of Peace, to search after Goods stoln and the party that is suspected to steal them; the Constable may, and must execute this Warrant accordingly. 2. If a Warrant come to any of these Officers, from a Justice of Peace, to bring such a man before him, to give Sureties for the Peace or Good-behaviour: In this Case the Officer cannot make a Deputy, or command another to doe it, but he may require the aid of others to help himself in the doing of it. 3. If a Warrant be directed to this Officer from the Justice of Peace, to bring any person before some Justice of the Peace of the County, for the Peace or Good-behaviour, and the cause (as it ought to be) is set down in the Warrant: In this Case the duty of the Officer is first to finde out the party; and having found him, to require him in the name of *the Keepers of the Libertie of England* to goe with him to a Justice of Peace to put in security according to the Warrant: The which if he refuse or delay to doe, or if he offer to run away from him or resist him, then must the Officer forthwith arrest him and convey him to the Prison (if the Warrant be so, as usually it is) or put him in some Stocks until he can conveniently have strength to goe with him, without carrying him to a Justice of Peace; and then must the party remain in Prison until he shall voluntarily

rily offer and finde Sureties, according to the Warrant. And if the party, upon the first demand thereof made by the Officer, doe yeeld to goe and finde Sureties, then may not the Officer absolutely arrest him: And if he be obstinate and will not yeeld to the Officer, but resist him, the Officer may justifie the beating or hurting of him. And of this Warrants execution and of his proceedings upon it, the Officer must give an account to the Justices of the Peace at their next Sessions of the Peace. And if the party doth yeeld to goe to a Justice of Peace to give Surety, according to the Warrant, but will not goe to the same Justice that made the Warrant, but to some other Justice he doth name, herein the Officer may, if he please, suffer him to have his will, howbeit in this case the Law doth give the election to the Officer, and he may bring the party before what Justice of Peace he please: And yet if the Warrant be to bring the party before the same Justice of Peace that made it: In this case the Officer must bring him before the same Justice, and cannot bring him before any other. And if the party being before the Justice of Peace, refuse to give Surety according to the Warrant, and the Warrant have words of authority to the Officer, to carry him to the Gaol (as most commonly every Warrant hath) then may the Officer carry him to prison without any new Warrant from the same or any other Justice of Peace so to doe. And in these Cases also the Officer is to consider whether the Warrant doe come directly from the meer authority of the Justice of Peace, or else be grounded on

Beating.

Carrying to Gaole.

CHAP. 8.

Constables, &c.

Warrant.

Dalt. J.P. 137.

5 Ed. 4. 6.

Numb. 16.

Supersedeas.

Arrest.

a Writ of *Supplicavit*, sent down from the higher authority (which difference might to appear in all well made Warrants;) For if the Warrant be grounded on such a Writ, then may the Officer compell the party to goe to the very same Justice or Justices of Peace that made the same Warrant; or else he may carry him to Gaole. Neither is it requisite in this case, that the Officer should dance up and down after the party untill he can finde out Sureties, but he may detain the prisoner untill he can bring Sureties to the Officer. And the Officer that doth arrest a man upon such a Warrant of the Peace or Good behaviour must see that he doe afterwards bring the party to the Justice of Peace to give Sureties, or to the Gaol; for if he doe not so, he may be punished for it by fine at the Sessions; and as he seems also) by Action of *Bail* imprisonment; at the suit of the party arrested. And if the party against whom such a Warrant is granted, bearing thereof, doth (as oft times he doth) offer himself with Sureties for the same, to some other Justice of Peace, and he doth binde them, or he findeth Sureties in some of the Courts at *Westminster*; and so hath a *Supersedeas* out of the *Chancery*, upper Bench, or from any Justice of the upper Bench; or from any Justice of Peace of that Countie, directed to all the Officers of the Countie to discharge the same Surety of the Peace or Good behaviour; and he hath the same ready to shew to such Officer as shall come to him with the Warrant, as aforesaid; and doth shew and delivers the same to him when he is about to execute the same

Warrant :

Warrant : In this Case the Officer is not
to meddle with him : For if the Officer
shall require the party to obey the arrest, he
may refuse it ; and if the Officer shall arrest
the party, he may have an Action of False-
imprisonment against the Officer for it. And
by this *Superseas* the Officer is discharged of
any duty touching the Warrant of the Justice
of Peace directed to him : But let the Officer
see that he keep his *Superseas* safe for his
discharge, if he be questioned for not serving
the Warrant. And it is not amiss for him to
give notice of the same to the Justice of Peace
from whom he received the commandment
of service, that thereby he may see the cause
why the same has not done. But in these Ca-
ses some say that another Justice of Peace can-
not discharge the Warrant of the first Jus-
tice of Peace, until the party be bound indeed.
Howbeit it such a *Superseas* to suppress the
Officer that shall the Warrant to arrest, it
seems that by this he is discharged, and that
he is to obey the *Superseas* especially if he
know not whether the party have given Bond
or not, yet this is not the case. And thus
we have spoken of the Office of
these Officers, set forth by the ancient com-
mon Laws of the Nation. And now we come
to speak of the same, as it is enlarged by divers
Statutes, whereunto also we shall under the same
difference we had before. That by the same
Statutes they are required and enabled to do
something of their own authority, and with-
out any commandment or authority from
whosoever, and other things they are required and
enabled

enabled to doe when they have commandement from the Iustices of Peace, or some other superior power, so to doe.

S E C T. 3.

*Of the Office of the High-Constable and
Petit-Constable against Prophanes
of the Lords-Day.*

FOR the better understanding of their Duty herein, these things are to be known.
1. This day is by every one to be sanctified and kept holy; and men must be carefull herein to exercise themselves in the duties of Piety and true Religion, publicly and privately; and every one on this day (not having a reasonable excuse) must diligently resort to some publique place where the service of God is exercised, or must be present at some other place, in the practise of some Religious duty, either Prayer, Preaching, Reading, or Expounding the Scriptures, or conferring upon the same. 2. None may on this day meet out of their own Parish at any sports whatsoever, nor may they meet within their own Parish for Boar-hawing, Bull-Baying, Interludes, or other unlawfull exercises, under pain to forfeit three shillings four pence for every offence, to be levied by distress and sale of Goods, and for lack of distress, to sit three hours in the Stocks: Nor may any one on this day keep on, be present at, any Wrestling, Shootings, Bowlings, Ringing of Bells for pleasure,

pleasure, Masque, Wake, Church-Ale, Dancing, Games, Sport or Pastime whatsoever, under pain to forfeit five shillings, if he be above fourteen years old; and twelve pence by him that hath the government of him, if he be under fourteen years old, to be levied by distress and sale of Goods; and if no distress be to be had, to sit in the Stocks three houres.

3. No Carrier may goe with his Horses, no Waggoner, Carter, or Wain-man may goe with his Cart, Waggon, or Wain, or Drover with his Cattel, on this day, under pain to forfeit twenty shillings for every offence, to be levied by distress and sale of his Goods, if he be questioned within six weeks after the offence done. But there shall be but one twenty shillings forfeited for one journey, although he pass through twenty Parishes, and this twenty shillings that Parish shall have where the distress is first taken.

Carriers.

4. No Butcher may kill or sell any victuals on this day, under pain to forfeit six shillings eight pence, if it be questioned within six weeks after the offence done, to be levied by distress and sale of Goods.

Butchers.

5. None may Cry, shew forth, or put to sale any Wares, Merchandises, Fruits, Herbs, Goods, or Cattel, on this day, unless it be in an Inne, or Victualing-house, and for such as cannot otherwise be provided for; and unless it be the crying and selling of Milk before nine in the morning, and after four in the afternoon, from the tenth of September to the tenth of March, and for the rest of the year before eight in the morning, and after five in the afternoon, under pain to forfeit the things so

Tradesmen.

Travellers.

Drinking,
Tipling.

Carrier.

Serving of
Process.

cryed or offered to sale. 6. None may on this day, without good cause by allowance of one Justice of Peace, travel, under pain to forfeit ten shillings; nor carry any burthen, nor doe any worldly labour, under pain to forfeit five shillings, both these forfeitures to be levied by distress and sale of Goods; and if no distress to be had, to sit in the Stocks three houres. 7. None may on this day, or the dayes of Humiliation, or Thank-giving, use Dancing, profanely Singing, Drinking, or Tipling in any Tavern, Inne, Ale-house, or Tobacco-house, nor be there: Or grinde any Corn at a Mill, but upon cause to be allowed by one Justice of Peace, under pain to forfeit ten shillings a peece, both he that is in the Inne, and he that keeps the Inne, the Millar and he that owes the Corn, to be levied by distress or sale of Goods; and for lack of distress, to be set six hours in the Cage or Stocks. 8. No Traveller, Waggoner, Butcher, Higler, Drover, or their Servants, shall come into their Inne or Lodging on Saturday night after twelve a clock; Nor goe from thence Monday morning before one a clock, without necessary cause to be allowed by one Justice of the Peace, under pain of the forfeiture of ten shillings by the Inne-keeper, and ten shillings by the Traveller, and to be levied by distress and sale of Goods; and for lack of distress to sit six hours in the Stocks or Cage. 9. None may execute any Writ, Order, or Warrant on this day, dayes of Humiliation or Thank-giving, but in case of Treason, Felony, breach of the Peace, and profanation of the day, under pain

to forfeit five pounds, to be levied by distress and sale of Goods; and for want of distress, to sit six hours in the Cage or Stocks, and the serving of the Process is void. 10. None (but *Coaches, Boats.* in case allowed by one Justice, or for Gods Service) may travel with a Boat, Wherry, Lyter, Barge, Horse, Coach, or Sedan, on this day, under pain of forfeiture of ten shillings by him that is carryed, and five shillings by him that doth carry, to be levied by distress and sale of Goods; and for lack of distress to sit six hours in the Stocks or Cage. 11. All Constables, Church-Wardens, Overseers of the Poor, Governors of Companies of Watermen, and other Officers, must, upon sight and knowledge or information of any of these offences before named committed, seize and *Seize Goods.* cure the Goods and Wares cryed, shewed forth, or put to sale, and make diligent search for the discovering, finding out, and punish- *Search.* ing of the offenders, under pain of twenty shillings, to be levied by distress and sale of Goods, and this punishment they must (as it seems) endeavor, by carrying the offender to a Justice of Peace.

And this, it seems, is hereby lawfull to be done by one of these Officers *ex officio*, and without a Warrant, hearing or seeing any one prophane this day, by any of the particular offences aforesaid. Also if a Warrant be sent to the Constables, Church-Wardens, and Overseers of the Poor of the Parish or place, to levy the forfeitures, or to inflict the punishment aforesaid, they must pursue their Warrant, and doe it under pain of twen-

ry shillings forfeiture. Stat. 1 Car. 1.
3 Car. 1. Ordin. 6. April 1644. Aft 19. A-
pril 1650.

S E C T. 4.

*Of the Office of High-Constables and
Petit-Constables, against Swearers.*

AS touching this, these things are to be premised. 1. The former Aft is repealed. 2. Every one that sweareth is to forfeit for the first offence as followeth. The Lord and all above him in degree thirty shillings : The Barronet or Knight twenty shillings : The Esquire ten shillings : The Gentleman six shillings eight pence : Any other Man or Woman, single or married, three shillings four pence : And for every offence afterward, twice as much. And for the tenth offence, being proved by verdict or confession, he is to be bound with Sureties to the Good-behaviour for three years : And for lack of payment or giving security, to pay it, and distress to levy it. If he be above twelve yearsold, he is to sit by the heels in the Stocks three hours for the first offence, and six hours for every offence after : If under twelve years, he is to be whipped by the Constable, or Master, or Father, in his presence. 3. Swearing after the Surety for the Good-behaviour given,

given, is a breach of the Bond. 4. Any Officer, Constable, Church-Warden, or Overseer of the Poor, may, *ex officio*, that heareth it, bring the offender to a Justice to be punished. And if any one Justice of Peace send his Warrant to any high-Constable or petit-Constable, to doe execution upon this Statute, they are to see it done accordingly. 5. He that is sued for doing anything on this Law, may plead the general issue, and if it goe *Pleading.* with him, shall recover treble cost. *Act. 22. Costs.*
Junii 1650.

SECT. 5.

*Of the Office of the High-Constable
 and Petit-Constable against Adulterers
 and Incontinent Persons.*

FOR the knowledge hereof take these things. 1. If any shall marry or have the carnal knowledge of the body of his or her Grand-father or Grand-mother, Father or Mother, Brother or Sister, Sonne or Daughter or Grandchild, Father or Mothers Brother or Sister, Fathers Wife, Mothers Husband, Sonnes Wife, Daughters Husband, Wifes Mother or Daughter, Husbands Father or Sonne, and confess it within twelve moneths after, or if it be found by verdict before Justices of Assize and the Peace, it is Felony wherein is no Clergy. 2. If any married Woman whose Husband have

have not been three years absent beyond Sea, Or by common report reported to be dead, or three years together from her, and she doth not know him to be alive, shall be carnally known by any but her Husband, except she be ravished, it is Felony, and both Man and Woman shall dye without Clergy. 3. If any shall carnally know any unmarried Maid, or Widdow, they both, if they confess it, or it be found by verdict, shall be committed to the common Goale, without bayle, for three Moneths, and until they respectively give security before some Justice to be of Good-behaviour for one year: the second offence is Felony without Clergy. 4. If any man or Woman be committed for a common Bawd or keeping a common Bawdy-house, for his first offence he is to be openly whipped, set in the Pillory, and marked with a hot Iron in the forehead with this letter B, and then sent to Prison or Bridewell for three years, without bayle, and untill they give surety for their Good behaviour for life. The second offence is Felony without Clergy. *Act 10. May. 1650. and 9. Aug. 1658.* 5. No party to be believed against the other, nor Husband against the Wife, nor Wife against Husband. 6. If any of these Officers be informed that a Man or Woman be committing of Adultery or Fornication together, he may, and ought to take company with him; and if he finde it so, he may arrest them and carry them both to prison, till they give surety of their good behaviour.

7. If any Warrant come from a Justice of Peace to any one of these Constables, to apprehend any such lewd person, that he may put in sureties for his good behaviour, he must execute it duly, according to the contents thereof.

SECT. 6.

Of the Office of the High-Constable and Petit-Constable in common, about Rogues.

IT is the duty of all these Officers to punish Rogues and Vagabonds : As touching this part of their Office, two things are to be known.

1. What a Rogue is, and who is to be accounted a Rogue. Secondly, What is to be done unto him.

As touching the former of these, these things are to be known, that all the persons hereafter mentioned, being above the age of seven years, and offending as hereafter is mentioned, shall be adjudged Rogues, or at the least shall be punished as Rogues (*viz.*)

1. All persons going about begging, upon any pretence whatsoever, as Sea-faring men, pretending losses of their Ships or Goods upon the Sea, or such as call themselves Scholars, or the like. Secondly, All idle persons going about the Country, either using any subtle craft, or unlawfull Game, or being Fortune tellers,

rellers, or Juglers, or using any such crafty Science. Thirdly, Stage-players declared to be Rogues, and to be punished by Ord. Feb. 1647. 4. All persons that be, or utter themselves to be Proctors, Procurers, Patent-gatherers or Collectors for Gaoles, Prisons or Hospitalls. And yet Patent-gatherers for fire, or the like, albeit perhaps they may be within the words of the Statute, yet are they not had or reputed as Rogues, nor so to be dealt with; for such Patents are alwaies made with a *non obstante* the Statute. 5. All Fencers, Beare-wards and Minstrels, wandring abroad. 6. All Tinkers, Pedlers, and petty-Chapmen, and also Glasse-men, that wander up and down the Countrey to sell Wares: But if they bee going to a Fayre or Market only, they are not to be taken as Rogues. 7. All wandring Persons and common Labourers, being Persons able in Body, using loytering, and refusing to work for such reasonable wages as is taxed, or commonly given in such parts where such persons shall dwell or abide, not having living otherwise to maintain themselves; and yet such persons as be of any Parish, and have able bodies to work, and doe not wander abroad out of the Parish, though they refuse to work for the wages given or taxed, are not to be sent to their place of byrth or last habitation, &c. but to the house of Correction. 8. All poor persons that are appointed to ask relief in the Parish where they dwell, by the Overseers thereof, if they shall beg in any other sort than is so appointed them, or shall beg by the high-

high-ways, though in their own Parish. And yet these persons are not to be sent to their place of byrth or out of the Town, except it be to the house of Correction; and so also it seemeth of all other persons that beg in the Parish where they dwell, without the appointment of the Overseers; in these cases they are to be sent to the house of Correction.

9. All persons (not being Fellons) wandring and pretending themselves to be Egyptians, or wandring in the habit, forme or attyre of counterfeite Egyptians. 10. All such persons, as being punished for Rogues, and having a testimoniall, through their own default shall not pursue the order appointed by the Testimoniall aforesaid; for so often as they shall break the same, they are to be taken and whipped again, untill they come to the place appointed them by the Testimoniall.

11. All such poor persons diseased and impotent that (being Licenced) travell from their home to the City of *Bath* or Town of *Buxton*, to the Baths, for ease of their griefs, or from thence homeward that shall beg; or if such persons be not lycenced by two Justices, or shall not returne home again according as they are limited by their Licence, or shall not be provided of relief for their travel. 12.

All Souldiers or Marriners that shall beg or shall counterfeite any Certificate from their Generall or Governor (but this in some cases is Felony, Stat. 39 Eliz. 17.) And yet it hath been held that if a Sea-faring man suffering Shipwrack, or a poor Souldier or Mariner, nor having wherewith to relieve him-
selfe

self in his travel homewards, and having a Testimoniall under the hand of some one Justice of Peace, of, or near the place where he landed, setting down therein the place where, and the time when he landed, and the place of the parties dwelling and byrth, whether he is to pass, and a convenient time for his passage, that if in this time and way they had begged, that they were not to be accounted Rogues. But it seems the Law, at this day, is taken by most men to be otherwise, and that this Licence will not serve for the Souldier or Marinier (especially if he be hurt or maimed) for then he may and ought to be relieved with money by every Treasurer of the County where he passeth (*viz.*) a convenient summe of money to carry him through the same, to the next County. And it is thought that at this day, no Justice of Peace can licence a man to beg in any case. Howbeit in some cases he may licence a man to wander, as in the cases before. The Justices of Peace may licence poor men to travel to the Baths, and poor Souldiers, and Mariners, to travel to their place of birth; and one Justice of Peace may licence a Labourer in the Harvest time to goe out of his own Countrey into another Countrey to work. And therefore if at this day a Souldier or Marinier shall be taken begging, or shall counterfeit a Certificate, he is to be accounted a Rogue. 13. A Rogue, &c. That shall goe with a general Passport (*viz.*) such a Passport which is not directed from Parish to Parish, is still to be accounted a Rogue, and may be punished,

Dalt. J.P. 92.

shed, by whipping again, and so also may
 such a Rogue as shall carry his own Report
 without a Guide. 14. All Servants depart-
 ing out of service without a Testimoniall, &c.
 on which shall be taken with any counterfeit
 or forged Testimoniall. 15. All persons
 that are able to labor, and thereby to relieve
 themselves and their Families, and shall run
 away, or threaten so to doe, and to leave their
 Families to the Parish. 16. And all persons
 infected of the Plague, and commanded by
 any of those Officers to keep in their Hou-
 ses, that doe notwithstanding goe abroad a-
 mongst their Neighbours.

5 Eliz. 4.

7 Jac. 4.

1 Jac. 31.

As touching the latter question, what
 is to be done to a Rogue, these things are
 to be known. Every one of these Of-
 ficers must doe his best endeavour to appre-
 hend every one of these Vagabonds, Rogues,
 or sturdy Beggers which shall be found and
 taken Begging, Vagabond wandering or mis-
 ordering themselves within their Hundred,
 Parish, or Tything. And, if any other
 man bring any such Person to any of these Of-
 ficers, he must take hold of him. 1. After
 he hath apprehended any such Rogue (ex-
 cept it be the Rogue that doth run or threat-
 en to run from his Family) he is to take
 order with the advice of the Minister and
 one of the Parishioners of the place) that he
 be stripped naked from the middle upwards,
 and that he be openly whipped untill his
 or her body be bloody. 2. After this whip-
 ping the party must have a Testimoniall
 subscribed with the hand, and sealed with
 the

what is to be
 done to him.

Numb. 2.

39 Eliz. 4.

1 Jac. 7.

the seal of the same officer and Minister testifying that the same person hath been punished according to this Statute, & mentioning the day and place of his other punishment, and the place whereunto such person is limited to goe, and by what time the said person is limited to pass thither at his perill after this manner,

John a Style a sturdy Vagrant Begger (of low personage, red haired, and having the nayle of his right Thumb cloven, aged forty years, was this sixt day of Aprill An. Dom. 1650. openly whipped at W. in the County of Gloucester for a wandering Rogue, according to the Law, and is assigned to pass forthwith from Burish to Parish by the Officers thereof, the next strait way to Sale, in the County of Essex, where (as he confesseth) he was born [or dwelled last by one whole year and if the case be such] and he is limited to be at Sale aforesaid, within ten dayes now next ensuing at his perill. Given under the Hand and Seale of A. B. Minister of the said Parish of W. and of C. D. Constable of the said Parish,

And this Testimoniall must be Registered in a Book provided for that purpose by the same Minister under pain of five Shillings. 4. The parry must be then forthwith sent by the same Officer to the next Parish that from thence he may be conveyed from Parish to Parish by the Officers of the same Parishes, the next straight way to the Parish where he was born, if the same may be known by the parties confession or otherwise: And if the same may not be known, then to the Parish where he or she last dwelled by the space
of

of one year before the time of the same punishment done, there to put him or her self to labour, or not being known where he or she last dwelt or was born, then to the Parish where he or she last passed through without punishment and thence to be conveyed from Officer to Officer to the house of correction of the limit wherein that Parish doth stand, or to the Gaol of the County. And in these cases it is the duty of these Officers also, to take and convey these persons from hand to hand, each of them from his own to the nex Tything accordingly: And in this time they are not to beg but are to be provided for at the charge of the Parishes through which they are conveyed, the Officer laying out the same for the Parish. And upon this part because the execution of these Lawes is required in these Officers, for their better direction herein these things (said to be resolved by the Judges at *Westminster* soon after the making of the Statute of 39 *Elix.* 4.) are to be observed. 1. If a Rogue say he was born at such a place and it cannot appear that he was born elsewhere, he must be sent thither. 2. If the Husband or Wife have a house, and the Husband or Wife rogue about, they ought to be sent to the Town where the house is, and so of an Inmate. 3. The Wife and Children under seven years of age being Vagrant must goe and be placed with the Husband, and if the Husband be dead, then with the Wife, where she was born or dwelt. And the Vagrant Children above seven years of age must be sent to the place of their Birth: And if the

Vagrant Parents with their Children under seven yeares, be placed at the place of Birth of the Parents, or at the place of last dwelling (as the case shall fall out) if afterwards the Parents or either of them dye, or run away, yet the Children once settled must remain there still, and may not be sent to their place of Birth though after they grow to the age of seven years. 4. The wife being a Vagrant Rogue, ought to be sent to the Husband, though he be but a Servant in another Town. 5. The Rogue whose place of Birth or dwelling cannot be known, having Wife or Children under seven years of age; they must goe with the Husband to the place where they were last suffered willfully to pass through without punishment, where the Children must be relieved with the work of their Parents, though their Parents be committed to the house of Correction. 5. If any of these Officers doe not their utmost endeavour to take, punish, and convey such Rogues according to the Statute, they forfeit ten Shillings for every default; and if any other man shall bring any such Rogue to the Officer, and he refuse to take and punish him as aforesaid, he doth forfeit twenty Shillings for every time he so doth; and if any man hinder the punishment or conveyance of Rogues after this sort, as if any man shall make rescues against any person authorized for the execution of this Statute, or any man convey Rogues by a generall Passport, without conveying them from Parish to Parish, or if any Constable will not receive a Rogue when he is brought to him in the

the right way, according to his pass, or if he accept him and doe not convey him to the next Officer; for every of these offences, the offender doth forfeit five pounds, and is to be bound to the good Behaviour; and if the Rogue be brought and delivered, or offered to the Church-wardens or Overseers of the poor, or either of them (to whom he is to be offered) they must accept him and look to him, or else they doe forfeit for every default herein five pound, and they are to be bound to the good Behaviour; and if these Officers doe take him, it seems they may deliver him over to the Constable presently. For, it seemes the Rogue is to be delivered or offered to the Church-wardens and Overseers (who are to see him relieved there) but he is to be carried and conveyed by the Constable; and yet if the Constable will not receive him at their hands, the Church-wardens and Overseers themselves must, at their perill, see him conveyed to the next Parish. 6. Constables are not to post away such persons as shall come or be sent unto them, that are desperately sick, or women with childe, ready to be delivered, but are to keep such till they recover strength, for by this meanes many have perished; neither are they to deliver any Vagabonds or Cripples to the next Constables, after Sun-set, or to convey such, especially Cripples, by horse or cart upon the Lords day, upon pain of punishment. 7. If any of these Rogues shall appear to be dangerous to the inferiour sort of people of the Rogues. place, as if he shall threaten, or offer any violence

Ord. II. Febr.
1647.

*conveying him
to the house of
Correction.*

*Private Sessi-
ons.
Numb. 4.*

Search.

violence to them, or will not be reformed by this means of his Roguish kinde of life, as in case where he hath been punished and sent to his place of Birth, and doth then fall to his roguish kinde of life again, or when he shall say he was born, or last dwelt in such a place, and in truth it is not so; in these cases such a person is to be accounted an incorrigible Rogue, so also is him that acteth as a Stage player the second time after conviction. And it is the duty of these Officers, if any of them meet with such persons within his liberty, to carry him before some Justice of Peace, there to be ordered by him according to the Statute. 8. If any warrant be sent from the Justices of Peace to any of these Officers, to convey any Rogue or other idle or disorderly person unto any house of Correction within the said County, they must be carefull, at the charge of the Hundred to doe the same, under pain to forfeit for every default, what Fine (not exceeding fourty Shillings) the Justices shall impose upon him that doth offend.

9. The Justices of the Peace of every Division, are to keep a private Sessions twice a year, at the least, to look to the execution of Statutes for the houses of Correction, and for the punishment of Rogues, and they must then four or five dayes before, send their Warrants to all these Officers within the Division, to require them that they, being assisted with some others sufficient men of the place, doe make privy search in one night within their precincts, to finde out and apprehend such Rogues and idle persons, and to bring them, if they finde

finde any, before the said Justices at their meeting; and this these Officers must be carefull to doe accordingly. And all these Officers must appeare at the said meeting, and then and there certifie upon their oathes, in writing, under the hands of the Ministers of the places where they dwell, what Rogues and Vagabonds they have taken in the same search, or since the last meeting of the Juwices, and whom they have punished and sent to the house of Correction, under pain to forfeit for every default whatsoever the said Justices (under 40. s.) shall assesse. 10. These Officers are to take and punish, and convey to other Officers every Rogue and Begger that shall be brought and set on the Land here from *Ireland, Scotland, or the Isle of Man*, till he come to the next Port or Parish, in or neer where he was first landed, under pain to forfeit ten *l* *Jac. 7.* shillings for every default. 11. It is every mans duty, as well as these Officers, to cause to be apprehended such Rogues as he shall see or know to resort to his house, to beg or receive any Almes, and him or them, shall carry or cause to be carried to the next Con- *Jac. 4.* stable, or else shall forfeit, for every default herein ten shillings. 12. The person that shall run from his Familie, and leave it to the Parish, is to be punished as an incorrigible Rogue: And he that doth threaten so to doe, is to be sent to the House of Correction, unless he can give Sureties for the discharge of the said Parish.

SECT. 7.

Of the Office of the High-Constables
and Pettit-Constables, about Search
for, or Seizing on Persons or Goods.

1. **T**hey may search Ale-houses, Tobacco-houses, for Typlers, and Idle Persons on the Lords day, *Act. 19. April 1658.* 2. A Felony being newly committed, the Constable within his limits may *ex officio*, and without any Warrant from a Justice of Peace, and ought to search for the Felon, or the goods. See more for this in *sect. 2.* of this Chapter before. 3. These Officers may search houses suspect to dwell near in the Lent and to seize it and give it to the poor, *as Jac. 29.* 4. These Officers are once every fifteen dayes to search and enquire the defaults of *Innes* and *Ale-houses.* 5. They may search suspect places for Nets and Dogges to take Partridges and Pheasants. 6. The High-Constable may search for Engins used for stretching of Cloth and deliver them. 7. They may search for bad Malt. 8. If any man dye for a Felony, the Constable of the Town may and ought to seize on, and keep safely his goods, because the Town is to answer for them, and it is best to be done by Indenture taken by the Tasse and before the Inhabitants. So upon the apprehending of the Person for Felony

23 Eliz. 10.

7 Jac. 11.

89 Eliz. 10.

Fellony, the Officer may seize on all his Goods and Chattels, and keep them safe, letting the owner have so much of them as is for his necessary maintenance, until his conviction, for til then the property is not altered.

SECT. 8.

Of the Office of the High-Constable and Petit-Constable, about making and levying of Rates.

THe Justices of the Peace, or the more part of them, may at their general Sessions holden after Easter, yearly (if they think meet) rate every Parish weekly at their discretion, so as no one Parish be rated above six pence, nor at less than one half-penny by the week, and so as the totall rate of the County amount not to above eleven pence for every Parish within the County; the which money is to be distributed for the relief of the poor prisoners in the upper-Bench and Marshalsey, and such Hospitals and Almshouses as are within the County, according to the discretion of the Justices, so as there be sent out of every County yearly twenty shillings to the upper-Bench, and twenty shillings to the Marshalsey, by a quarterly payment. And this summe in every Parish is to be assessed by the agreement of the Parishoners within themselves: in the making of wch rate, their best way is to follow the rule of the taxation of men for the poor,

Rates for the upper-Bench and Marshalsey
43 Eliz. 2.
Numb. 1.

or in default thereof by the Church-Wardens and Petit-Constables of the place, or the more part of them; and in default of their agreement, by the order of the Justice of Peace within the same Parish (if there be any) or if not, of the next Justice of Peace in the next parts adjoining. And if any person of the Parish so taxed, refuse or neglect to pay the same rate, the Church-Wardens and Constables, or any of them; or in their default, any Justice of Peace of the said limit may levy the same by distress and sale of the offenders Goods, rendering to him the over-plus. And these sums taxed by the Justices on every Parish, the Church-Wardens of the Parish must collect and pay over to the High-Constable of the Hundred quarterly, ten dayes before the end of every quarter. And if the Church-Wardens or Petit-Constables, their Executors or Administrators, fail to pay this money, the Church-Wardens, their Executors or Administrators, shall forfeit ten shillings. And after this the High-Constable must pay over the same at every Quarter-Sessions, to the Treasurers of the County, or any of them. And if he, his Executors or Administrators, doe not so, they shall forfeit twenty shillings: And these forfeitures the Treasurers may and must levy by distress and sale of their Goods, rendering the over-plus to the party; and when he hath recovered the money, he must imploy it to the uses aforesaid: And if any Action shall be brought against any Officer, for doing any thing by virtue of this Act, he may plead in generall, that it was done by authority

Plea.

tie

rie of this Statute; without shewing any other speciall matter; and if it pass with the Defendant, or the Plaintiff be nonsuit after appearance, the Defendant shall recover treble Damages.

Costs.

Two Justices of Peace may rate a Hundred for the money recovered against the same, and levyed upon one man of the Hundred for a Robbery; and then these Officers of these verall places, Towns, and Parishes may, and must, rateably and proportionably tax and assesse every Inhabitant and Dweller within the same place, according to his abilitie, towards the payment of the Rate and Assessment made by the Justices. And this money so rated, they must afterwards collect: And if the parties so taxed refuse to pay this Rate, these Offices may, of their own authoritie, distrain every person by his Goods and Carrels that shall refuse to pay the same, and may sell the same Goods; and retain so much of the money, made thereof as his taxation shall come unto, and the over-plus of the money made of the same Goods, they must deliver to the person so distrained: And within ten dayes after the collection of those monies, they must pay over the same to one of the Justices of the Peace that made the same Rate, to the use of the party robbed.

Rates for money recovered against a Hundred for a Robbery.

Numb. 2.

27 Eliz. 13.

If any person be sent to the common Gaol of the County by any Justice or Justices of the Peace for any offence, the same person, if he have ability and estate of his own to doe it, must bear his own and his attendants charges; and this if he refuse to defray, then such Jus-

Rates to carry an offender to the Gaole.

Numb. 3.

3 Jac. 10.

Dalt. J.P. 298.

lice

Justice or Justices of Peace that so sent him to Gaole, may by Warrant under his or their Hands and Seals give, power unto any of these Officers of the place where such person shall be dwelling, or from whence he shall be committed, or where he shall have Goods, by the appraisment of four of the honest Neighbours of the place, to sell so much of his Goods as to discharge it, and to render him the over-plus. And in case such person shall not have any Goods known within the County, whereby to make satisfaction, then that the Constables and Church-Wardens, and two or three others of the honest Neighbours of the place where the said offender shall be taken (if there be any such Officers there) or otherwise four of the principall Inhabitants of the place shall make a Rate, which being confirmed by the hand of one or more Justices of the Peace, shall binde the Inhabitants. And if any so taxed shall refuse to pay the rate, the same Justice or Justices that did commit the offender, or any other Justice of Peace neer adjoining, may give Warrant to any of these Officers of the place to distrain his Goods there, and to sell the same. And then, and thereupon this Officer may and must take some of his Goods, and apprise them by four substantiall Neighbours, and afterwards he may sell so much thereof as to pay the same rate, and if there be any over-plus, he must deliver the same to the party taxed. It is for this Officer should be paid his charge for the convey of Rogues, Re-
sol. Judges. 1633. sect. 10. But *Quare* how it shall be done, if the Officers of the Parish
 211

agree in it, the best way is to fetch it in upon the rate for the Poor, or Church, by the help of Justices.

Every Parish shall be charged to pay weekly such a sum of money, towards the relief of Sick, Hurt, and Maimed Souldiers and Mariners that have lost their Limbs or disabled their bodies in the publique Service, as by the more part of the Justices of the Peace at their generall Quarter-Sessions holden after Easter yearly, shall be taxed, so as no Parish be rated above the sum of ten pence, nor under the sum of two pence, weekly to be paid, and so as the total sum of such Taxation of all the Parishes in any County where there shall be above fifty Parishes, doe not exceed the rate of six-pence for every Parish. The which sums so taxed shall be yearly assessed, by the agreement of the Parishioners within themselves [in the making of which rate, the best way to follow the rule of Taxation for the Poor] or in default thereof, by petty-Constables and Church-Wardens of the Parish, or the more part of them, or in default of their agreement, by the order of the Justice or Justices of the Peace living within the Parish, or (if there be none) living in the parts next adjoining. And if the parties rated refuse to pay the rate, the Constables and Church-Wardens, and every of them; or in their defaults, the said Justice or Justices of Peace, may levy it by distress and sale of the Goods of the partie, rendering to him the over-plus. And this monie the Church-Wardens and Constables must collect, and pay to the high-Constable

*Rates for the
maymed Souldiers and Mariners.*

43 Elix. 3.
Numb. 4.

stable of the Division, ten dayes before every Quarter-Sessions. And the high-Constable also, at the same Sessions, must pay over the same monies again to any one or two of the Justices of Peace, or to the Treasurer or Treasurers of the said collection, under pain of fourty shillings to be forfeited by the high-Constable for every default; and under pain of twenty shillings to be forfeited by the pety-Constable for every default of his, the same monie to be recovered by the said Treasurer, by sale of the Offendors Goods, as aforesaid, and to be employed by him to the use of the Poor, maimed Souldiers, and Mariners.

Rates for the Prisoners in the Gaole.

Numb. 5.

14 Eliz. 5.

2 Jac. 25.

They are to make a Quarterly-payment of all such summes of monie as are raised in every Parish and paid to them by the Church-Wardens of the Parishes, for the relief of the poor prisoners in the common Gaole, under pain of five pounds. And this monie the Constables in some places doe pay to the high-Constable.

Rates for the amending of Bridges.

22 H. 8. 5.

Numb. 6.

They are to be aiding and assisting to the four Justices of Peace, appointed and authorized for the making of Taxes for the reparation of Bridges, according to the Statute of 22 H. 8. For these Justices are to make the Taxation by the assent of the Constables, or of two of the most honest Inhabitants of the Parish.

Rates for the house of Correction.

39 Eliz. 4.

Numb. 7.

The Justices of the Peace at the Quarter-Sessions may Tax the Countie towards the erection and maintenance of houses of Correction. And all these Officers must doe their uttermost to put the same Statutes in execution.

These

These Officers must levy such monies as *Rates for per-*
they are commanded by Warrant of Justices *sons having the*
of Peace having taxed the same for the re- *Plague.*
lief of the Poor infected with the Plague) un- *1 Jac. 31.*
der pain to forfeit twenty shillings for every *Numb. 8.*
default to the use of the persons infected.

S E C T. 9.

*Of the Office of High-Constables and
Petit-Constables about Inn-keepers,
Ale-houses, Drunkards, Tiplers, &c.*

1. **I**F an Inne-keeper, &c. refuse to receive a Traveller when his house is not full, and having no good reason for it, this Officer may compell the Inne-keeper to receive him : But how he may compel him is doubted : For it seems all he can doe, is to cause him to be indicted at the Sessions, or to be suppressed for it.
2. If any person without lawfull licence take upon him (except it be at Fair times only) to keep a common Ale-house or Tipling-house, or use commonly selling of Ale, Beer, Cider, or Perry, he shall forfeit for every such offence twenty shillings, to the use of the Poor of the place (the offence being viewed by one Justice of Peace, or confessed by the party, or proved by one witness before him :) And this forfeiture may be, or is to be levied by the Constable or Church-Wardens of the place, by Warrant from a Justice of Peace, &c. And they by vertue of such a Warrant may,
and

and must by distress take into their hands so much of the offenders Goods to pay the same. And if he pay not the monie within three dayes after the distress taken, they must apprise and sell the same Goods, and keep up the same monie; and if there be any overplus, they must render the same to the partie. And if the partie shall not have Goods, &c. or shall not pay the same within six dayes after conviction, then the Justices of Peace, &c. may commit the offender to any of these Officers to be openly whipped, according to the discretion of the Justices of Peace. The which these Officers (being charged herewith) must see they carefully doe; for otherwise they may be committed to Gaole by the same Justice of Peace, there to abide without Bayle or Mainprise until they doe procure the same offender to be whipped according to the Warrant of the Justice of Peace, or untill they pay fourty shillings unto the use of the Poor of the Parish. 3. If any person lycenced shall utter or sell less than one full Ale-quart of the best Beer or Ale for one penny, and of the small two quarts for one penny (the same being proved by one witness, before one Justice of Peace) shall forfeit twenty shillings. And if any person whatsoever, Townsman or Stranger, shall be and abide tipling in any such house (the same being proved by one witness or the parties own confession, before one Justice of Peace :) In this Case, and for this offence, the Inne-keeper, &c. owner of the house, for suffering this in his house, doth forfeit ten shillings for every such offence. And

And the party that doth so tittle, doth forfeit for every such offence three shillings four pence, and these summes are to be levied by the Constables and Church-wardens of the place where the offence is done, by distress and sale of the offenders Goods, upon Warrant from one Justice of Peace. And if the Inn-keeper, &c. have no Goods to be distrained, he may be by the Justice of Peace committed to the Gaole, there to be kept until he pay the monie: And if the Tipler be not able to pay his forfeiture, he is by Warrant from a Justice of Peace to be made to sit in the Stocks four hours. And all these summes are to goe to the use of the Poor of the Parish where the offence is committed. And in cases of forfeiture by Inn-keepers, &c. for selling by unlawfull Measures, or for suffering Tiplers in their houses, if the Constables or Church-Wardens shall neglect to levy, or shall not levy the said several forfeitures, or in default of distress shall neglect by the space of twenty dayes to certifie the same defaults of distress to the Justices of Peace; then every such Church-warden or Constable shall forfeit for every such default forty shillings to the use of the poor of the same place, to be levied by Warrant from the Justices of Peace to some indifferent men. And for want of distress, the same Constables and Church-wardens may be by any Justice of Peace committed to the common Gaole, there to abide untill they pay the forfeiture. And for all these monies so recovered by the Church-wardens or Constables, they shall be accountable to their
successors

successors and other the Parishioners in such sort as they usually be in other Church reckonings or accounts. And for the forfeitures levyed by others upon the Officers, they that levy the same shall be accountable therefore. And if any man be drunk, and thereof convicted, he is to forfeit five shillings for the same, which he is to pay within a week after the conviction to the Church-wardens, to the use of the poor of the place, to be levyed (on the neglect or refusall of the party to pay it) by Warrant from the Court, Judge, or Justices, before whom the same conviction was, upon the offenders Goods. And this Warrant may be made to the Constables or Church-Wardens. And if the party be not able to pay it, then he is, by Warrant from the Justice of Peace, to be set in the Stocks, and there to sit six houres. And for the second offence, he is to be bound to the good Behaviour. And all these Officers are in their oaths, incident to their Offices, to be charged to present the offences against the Statute of 1 Jac. and 4 Jac. which are for selling by unlawfull measures, tipling, or suffering tipling and drunkenness, and in cases of forfeitures for drunkenness, and for tipling against the tiplers themselves, & for not making presentments, being required; If these Officers or the Church-wardens shall neglect their duties in levying the said penalties, and due correction of the offenders as aforesaid, they shall forfeit for every default ten shillings, to the use of the Poor, to be levyed, as aforesaid, by Warrant from the Justice of Peace, &c. But for drunkenness or tipling no man may be prosecuted

Secured after six moneths after the offence committed: And yet for suffering tipling and selling by unlawfull Measures, the Ale-house-keeper, &c. may be punished at any time. In all these cases and upon all these Statutes, the Officers are to take care when any Warrant is sent unto them from any Justice of Peace, Major, Bayliff, &c. that they see it duely and carefully executed, for fear of the severall punishments aforesaid.

SECTION. 10.

Of the Office of the High-Constable and Petit-Constable about May-Poles, Stage-Plays, Cloathiers, Disturbance of Ministers, Labourers and Servants; Moneys forfeit about High-ways, making Supravisors for High-ways; such as have the Plague, Hedge-breakers, Maulters, &c.

NO May-Poles may be set up, and May Poles. if any be, they must be forthwith, Numb. 1. taken down by the Constables, Tything-men, and Church-wardens, of the place under pain of five shillings a week, to be forfeited by these Officers till it be pulled down. And if any Justice of Peace send his Warrant to the Constables, or Church-wardens

CHAP. 8.

Constables,

wardens of the place, to levy this money on the Offendor, he must doe it. *Q. 11. 9. Dec. 1646.*

Stage Playes.
Numb. 2.

2. No Stage-Playes may be acted, the Actors are to be punished as Rogues: The Spectators forfeit five shillings a time, and the money collected is forfeit. And if any Warrant come from a Justice of Peace to the Church-wardens or Constables of the place, to levy these forfeitures, they must execute it, *Ord. 11. Febr. 1647.*

Clothiers.

7 R. 2. 9.

Fitz. J. P. 203.

Numb. 3.

3. He that shall espy and prove defaults in any Cloth set to sale, against the Assize appointed for Cloths, and against the form of the Statutes, shall have the third part of every such defective Cloth for his travell, by the delivery of the Sheriffs, if they be present, or the Lords of Faires and Markers, or of the Stewards, Bayliffs, or Constables of the places where the said defective Clothes are found by Indenture made between them. The which Indentures must be delivered yearly at the Feast of St. Michael into the Exchequer, to the intent to charge the Aulvengers and Collectors, by whom such defaults should be searched and amended. By which Statute this Officer being required, is to take and deliver a third part of all such Clothes as are found so defective by Indenture.

Disturbance of
Ministers.

1 Mar. 3.

Numb. 4.

4. None may purposely by word or deed [as by talking, laughing, hemming, or the like] without authority, disturb a Minister in his preaching of the Word, praying, or administering of the Sacraments. And if any do so, any one of the Constables or Church-wardens

of

of the place may of his own authorly present-
ly apprehend him and carry him to a Justice of
Peace of the same County, who may (if he
think it meet) commit him to safe custody;
and within six dayes after, taking with him
another Justice of Peace, must examin the
matter; and if by proof of two witnesses they
finde it true, they must commit the party
to Gaole, where he is to be for three
moneths.

5. Any one of these Officers may, and must *Laborers and*
in the time of Hay or Corn Harvest, upon *Servants.*
request to him made by any man, and for the *5 Eliz. 4.*
avoyding of the losse of Corn, Grain, and *Numb. 5.*

Hay, cause all such Artificers as he shall see
meet to labour, to serve by the day, for mow-
ing or otherwise, for the getting in of Corn or
Hay abroad, according as they see them fit;
And if such Persons shall refuse to work as
aforesaid, being thereunto required by the
Officer, the Officer may put him in the Stocks
by the space of two dayes and one night; And
this if the Officer shall neglect to doe, he
shall forfeit fourty shillings. No person retain-
ed in Husbandry, or in any Arts appointed *Departing*
by the Statute of Laborers, made in *5 Eliz. without a Te-*
may depart after the time of such retayner ex- *stimoniall.*
pired, out of the Town or Parish where he *5 Eliz. 4.*
last served, to serve in another, unless he *Numb. 6.*
have a Testimoniall under the Seal of the
Constable, or other such officer, and two other
honest Householdors of the Town or Parish
where he last served, according to this form.

Memorandum, That A. B. late Servant of
C. D. of E. in the County of G. Husbandman

(or Taylor, &c.) is licenced to depart from his said Master, and is at liberty to serve elsewhere, according to the Statute in that case made and provided. In witness whereof, &c. Dated the day, moneth, year, and place of the making thereof. The which Testimoniall, the Minister of the Parish where such Master, Mistris, or Dame doth dwell, ought to register, taking only two-pence therefore. And if any such person be admitted into any other service without shewing any such Testimoniall to the Constable, or such other Officer, Curate, or Church-wardens of the place where he shall be accepted, he shall be imprisoned untill he procure such a Testimoniall; the which if he doe not within twenty one dayes, next after the first day of his imprisonment; or if he shall bring a counterfeit Testimoniall, he is to be whipped as a Vagabond, and he that shall receive any such person into his service doth forfeit five pound for every such offence.

*Monyes forfeit
for high wayes
and making Su-
pervisors for
th. high-wayes
2. & 3. Ph. &
M. 8.
Numb. 7.*

6 First, The pery-Constables, &c. are to joyne with the Church-wardens to take the Estreates of the forfeitures of offenders against the Statutes for the High wayes: And they are to call the high-Constables to account for the Monies they have received of such offenders, and to take the same monyes into their hands, and to bestow the same upon the reparation of the high-wayes of the place. Secondly, the Constables and Church-wardens of every Parish ought yearly upon the Tuesday or Wednesday in Easter week, to call together a number of the Parishoners, and to choose two honest men

men of their Parish to be Surveyors of the work for amendment of the high-ways within their Parish, leading to any Market Town; and then ought also to appoint six dayes for the amendment of those wayes, before Midsummer then next following, and ought also openly in the Church, the next Sunday after Easter, to give knowledge of the same six dayes, upon pain of fine, making to be assessed by the Steward of the Leet: or in default thereof, by two Justices of the Peace, in open Sessions, as in their discretion shall be thought meet

Any one of these Officers [in times and places of infection with the Plague] (if the infection be out of any City, Borough, Town, Corporate, priviledged place, or Market Town) may command or appoint, Persons infected, or being, or dwelling, in any house infected, to keep their house, for avoyding of further infection: And if notwithstanding such Persons, doe wilfully and contemptuously disobey such direction, and appointment, offering, and attempting, to break or goe abroad, and to resist, or going abroad and resisting such keepers, or Watch-men as are appointed to see them kept in: It is lawfull for such Watch men, with violence to enforce them to keep their houses. And if any hurt come by such enforcement to such disobedient Persons the said keepers, Watch-men, and other their assistants, shall not be impeached thererfore. And every infected Person, so commanded, by any of these Officers, to keep their house,

*About persons
that have the
Plague.*

*1 Jac. 31.
Numb. 8.*

which contrary to such commandement wilfully and contemptuously goeth abroad and converseth in company, having any infectious sore upon him uncured, becometh Fel-lon: But if such person have not such sore found about him, then for his said offence he is to be punished, as a Vagabond, and ought to be by Stat. 36 *Eliz.* 4. and further to be bound to his good behaviour for a year.

2. The Constable, &c. that shall wilfully make default in levying such money as they shall be commanded to levy by the Warrant of two Jus-tices of the Peace, upon the Statute for the relief of any Town infected with the Plague, shall forfeit for every such offence ten shillings.

Hedg-breakers.

43 *Eliz.* 7.

Numb. 9.

8. If a Justice of Peace, send his War-rant, to any one of these Officers, for the whip-ping of any person, convicted before the Justice for robbing of Orchards, cutting or pulling up of Wood, Corn, or any such like trespass; the Officer must by himself or some other, see that the same be done accordingly; for otherwise for his neglect therein, he is to be committed to Gaole by the same Justice of Peace, and there to be kept untill he doe procure the same Person to be whipt, according to the same Justice of Peace Warrant.

Maulters.

Numb. 10.

9. The Constables, also of every Borough, or Town, may search, and survey, all such Mault as shall be made, or put to sale there; and if they finde any Barley-Mault made at any time (the moneths of *June*, *July*, and *August*, only excepted) but that the

the same shall have the space of three weeks, at the least in the Far, Floor; steeping, and sufficient drying thereof. And in these three moneths the space of seventeen dayes at the least: or if he finde any person to put to sale any good Mault mingled with Mault not sufficiently made, or with Mault made with Mowburnt or spired Barley; or that put to sale any Mault not sufficiently well trodden, rubbed and fanned, whereby half a peck of dust or more may be fanned out of one quarter thereof; then may such Constable, with the advise of one Justice of Peace of that Shire, cause the same Mault to be sold to such persons, and at such reasonable prices, under the common price of the Market, as to his discretion shall seem fit. But some say this doth not belong to ordinary Constables, but to the head Constables of Corporations. It seems to me otherwise.

SECT. II.

*Of the Office of High-Constable and
Petit-Constable about Recusants,
Dressing meat in Lent, Purveyors,
Souldiers departing from their Com-
manders, abjured Persons, employ-
ment of Money given to Charitable
uses, Takers of Pheasants, &c. Fish,
High wayes in Kent, stoned Horses,
Colledge of Physitians.*

Recusants.

1. **T**He Constable and Minister of the Parish, must take and enter into a Book, and certifie to the next Quarter-Sessions, the names of all Recusants sent thither by order, 35 *Eliz.* 8. 2. These Officers, if required by lawfull Warrant, must apprehend Popish Recusants excommunicate, 3 *Jac.* 4.

Lent.

No Butchers may kill or sell meat in Lent, under pain to forfeit it. And these Officers may seize it, and give it to the Poor: 1 *Jac.* 29.

Purveyors.

If any Cator, or other, shall (without lawfull bargain) take upon him to purvey, or take up any thing whatsoever of another, against his will, to the use of any great Lord, or other person, and the party grieved give notice thereof to the Constable, or such Officer of the place; In this case, and hereupon the Officer (*viz.*) the Constable or Tything-man of the place,

place, must, under pain of twenty pounds arrest such Taker, and carry him to the next Gaole, where he is to remain without Baile or Mainprise, until he redeliver the things so taken or the value thereof.

Any one of these Officers may arrest Soul-Souldiers. diers arriving here, that they suspect to have been in the service of the State, & are departed from their Captains without leave, 18 *Eliz.* 19.

Persons abjured to goe to any Port, it seems *Persons abjured* must be conveyed by these Officers.

These Officers are to joyn with the Minister, *Money given to* Church-Wardens, and Overseers of the Poor, *charitable uses.* where monie is given for the placing of poor children apprentices in the imployment thereof.

These Officers may search suspect places for *Takers of Phea-* setting Dogs and Nets to take Partridges and *sants, &c.* Pheasants. And the Church-Wardens may sue for and recover the forfeiture, 23 *Eliz.* 10.

7 *Jac.* 11.

These Officers and the Church-Wardens *Takers of Fish.* being commanded by a Justices Warrant must levy the forfeitures upon such as take Fish with unlawfull Nets, 3 *Jac.* 12.

The penalties of the Statutes, for repair of *High-ways in* High-ways in the wealds of *Kent, Surrey, and Kent.* *Sussex,* are to be levied by these Officers, by Warrant from the Clerk of the Peace, or two Justices, one of the *Quorum,* 39 *Eliz.* 19.

Constables in *Cambridg-shire,* and the Isle of *Stoned horses.* *Ely,* being desired, must measure the stone-horses that goe in the Common; and must yearly drive the Common, 22 *H. 8.* 13. 8 *Eliz.* 8.

These Officers in *London,* and within seven *sitians.* miles thereof, are to attend upon the Colledge of *Physicians.*
Colledge

ledge of Physicians, being thereunto required,
14 H. 8. 5.

SECT. 12.

*Of the Duty of High-Constables and
Petit-Constables in attending the
Justices, setting and making of Pre-
sentment.*

THe High-Constables and Petit-Con-
stables are to attend upon, aid, and assist,
and execute the Warrants of the Judges of
Assise at their Assises and Gaole delivery. And
the Justices of Peace, at their generall and spe-
ciall Sessions, and other meetings, and there
(upon Oath, and in writing if it be required)
to make presentment unto them of such things,
and to such Articles as these. 1. If Hue and
Cry, for apprehending of Fellons, have been
duely made and followed, and by whom neg-
lected. 2. If Watch and Ward have been
duely ordered and observed, and who is faulty
therein. 3. If Rogues have been duely appre-
hended, punished and conveyed away to their
place appointed, and who is faulty therein.
4. If the Statute of Laborers be observed, as if
the Rates of wages be observed, what Servants
or Apprentices have put themselves off, or are
put away before their term be ended, and what
is become of the Servant or Apprentice; what
unmarried persons of able bodies live out of
Service, not having means otherwise to live
then

then by their Service. If they work, who sets them to work : What persons live idly and will not work, or not for reasonable wages, or spend all at the Ale-house. 5. Of such as lodge and harbour dangerous and suspicious persons, for whom they will not answer. 6. If Bakers and Brewers keep due Affize of Bread and Beer : or that sell unwholsom Bread or Beer. 7. Such as sell by false weights and measures. 8. Foretellers, Regrators, Ingrossors. 9. What Cause-ways, Bridges, and High-ways are in decay, and by whose means. 10. Millars. 11. They must also present the offences done contrary to the Statutes made for the repressing of Drunkenness, and other disorders, and such Articles as these : 1. What number of Ale-houses are within their limits. 2. Which of them are licenced, and which not, and by whom. 3. Which of them licenced are, in regard of their persons and dwellings, fit to sell. 4. Who keep ill order by keeping Gaming, harbouring Rogues and Theeves, suffer Tipling, Drunkenness, &c. selling by unlawfull measures, measures unsealed, or less than a quart of the best, and two quarts of the small for a penny. 12. Of the Defaults of High-ways not enlarged, and of Ditches, Underwoods, and Bushes there, to cover Theeves, within two hundred foot. And if they be charged, they must give account to all the particulars of their Office : And for any neglect or fault herein, the Justices may punish them by Indictment or otherwise, as in other like cases of neglect or contempt of them.



CHAP. IX.

*The Power and Duty of the
High-Constable alone,
and in speciall; and beyond
the Power of the Petit-
Constable.*

SECT. I.

*Against Cloath-
iers and their
workmen.*

4 Ed. 4. 1.

Fitz. J.P. 203.



He High-Constables Office
lyeth further in these things
following. The Makers of
Cloath shall pay to their
Carders, Spinners, and o-
ther Laborers in lawfull
money, [and not in Pinns,
Girdles, or such other things] for their, work,
under pain to forfeit three times so much as
their wages. And they must deliver them their
Wooll by due weight : And the Carders,
Spinners, Fullers, Dyers, Shoremens, and other
Laborers

Laborers shall doe their work faithfully, under pain to forfeit double damages. And the Constable of the Hundred may hear and determine the complaints of every such Cloathier and Draper, as well for not payment of the wages of the Laborers, as of the forfeiture and damages by due examination of the parties. And hereupon also, for not payment of the said Duties, Forfeitures, and for the Damages, to commit the Trespassers to the next Gaole of the same County, until the said Duries, Forfeitures, and Damages be paid. Also they may enter into any House, Land, or other place, to search for any Tenters, Ropes, Rings, Head-wranches, or other Engins for stretching of Cloath, and deface them: And if the owners shall afterwards use them, these Officers may take and sell them, and give the monie to the Poor.

S E C T. 2.

Of the High-Constables Office in receiving and paying of the Rates.

THe Justices of the Peace or the more part of them, at their quarter-Sessions, may Rate every Parish within the Shire at such summs as they shall think fit, towards the relief of the poor Prisoners within the common Gaole of the Countie, so as it exceed not eight pence a week in every Parish, and this the Church-wardens must levy [within their Parishes] on the Sundayes, and once every

Rates for the Prisoners in the common-Gaole.
14 Eliz. 5.

every quarter they must pay the same to the High-Constable, who must also pay over the same again at the next Quarter-Sessions of the same County, to such Collectors living neer the same Gaole as the said Justices shall there appoint to receive it; the which Collectors are to distribute the same weekly, according to the said Justices appointment, under pain of forfeiture of five pounds, by every one of these Officers making default herein.

Rates for the upper-Bench and Marshalsey.

43 Eliz. 2.

2. They are to receive the monies rated by the Justices upon the County, for the relief of the poor Prisoners in the upper-Bench and Marshalsey quarterly, from the Church-Wardens of the Parishes within their Division ten dayes before the end of the quarter, and then they are at the next quarter-Sessions, to pay over the same to the Collectors appointed by the Justices, under pain of twenty shillings for every default.

Rates for the maimed Souldiers.

43 Eliz. 3.

3. They are also to receive the monies rated by the Justices of Peace on the County, for the relief of maimed Souldiers and Mariners, ten dayes before every quarter-Sessions, from the Church-Wardens and Constables of every Parish within their Division. And then the High-Constable, at the same Sessions, must pay over the same monie to any one or two of the Justices of the Peace, or to the Treasurer of the County, for this purpose, under pain of forty shillings to be forfeited for every default. But in these three last cases, it seems the High-Constables doe now usually send out their Warrants to the Petty-Constables and Church-

Church-Wardens, to require them to bring in the monies aforesaid.

S E C T. 3.

The High-Constables Power and Duty about High wayes.

EStrears indented, ought to be made by *About high-*
the Clerk of the Peace, and by the Ste- *wayes.*
ward of the Leet, of all forfeitures arising in 2. & 3. Ph.
the Sessions of the Peace, or in the Leet, upon & M. 3.
the Statutes of High-wayes; of which Estrears, 5 Eliz. 13.
one part ought to be delivered yearly within
six weeks after Michaelmas, to the High-Con-
stable of the Hundred wherein the defaults
were committed; and the other part to the
Constables and Church Wardens of the Parish
wherein the defaults were, to the end that
such High-Constable may thereby levy by dis-
tress the same forfeitures, or the double there-
of if no distress can be found, or if such forfei-
tures be not paid within twenty dayes after a
lawfull demand of the same by the Officer, and
to the intent also that the said Constables and
Church-wardens may thereby call the said
High-Constable to an account before two Ju-
stices of Peace (the one being of the *Quorum*;) *the one being of the Quorum;*
for the said High-Constable is once every year,
between the first day of *March* and the last
day of *Aprill*, to make a true account and pay-
ment of all such summs of monie as he hath
received by means aforesaid, to the Pety-
Constables or Church-Wardens of the place
where

where the offence is committed, or any two of them, under pain of fouerty shillings. And this if they refuse to doe, they may be compelled unto by the Church-Wardens, by the help of any two Iustices of the Peace (the one being of the *Quorum*;) And this monie is to be bestowed by the Church-Wardens on the High-ways of the Parish. And upon this account the High-Constable is to have for his pains eight pence for every pound he hath levyed and paid.

S E C T. 4.

Of the Power and Duty of the High-Constable alone, about keeping petty-Sessions, Sea-banks in Northfolk, presenting of Recusants.

Keeping petit Sessions.

5 Eliz. 4.

Sea-banks in Norfolk.

29 Eliz. 24.

Making Presentation of Recusants.

3 Jac. 4.

THe High-Constables in all such Shires where the petit Sessions for Servants and Laborers (otherwise called Statute Sessions) were used to be kept before 5 Eliz. may yet still hold their Sessions; so that nothing be done in them contrary to the Statute of Laborers and Servants, made 5 Eliz. 4.

The High-Constables of Hundreds there, must overlook the work for amending the Sea-banks, according to the order of the Iustices of Peace at Sessions.

The high-Constable in default of the Church-Wardens and Constables of the Parish, is once a year to present at the Sessions, the names of Popish Recusants, their Children, and Servants.

CHAP.



CHAP. X.

*Of the Office of Constables of
Towns that are head Offi-
cers, and have others under
them, about Weights and
Measures, unlawfull Games,
Coopers, Merchandise, ma-
king Mault.*



Here are also in some places
Constables of Towns or
Parishes that are head
Officers, and have others
under them. And these in
some Corporate Towns are
part of the name of their
incorporation. And in some
places they have other Officers under them.
And this Officer is in some Statutes called a
High-Constable. And to him doe some of the
things aforesaid belong in common with other
Constables, as to make a Testimoniall for a
Servant

Servant to goe into another Parish ; to com-
pell an Artificer to work in the Harvest time ;
and some other things. And some other things
there are, that are said to belong to the Con-
stable of a Town only, and to none other of the
Officers aforesaid, as the things hereafter men-
tioned, *viz.*

*Weights and
Measures.*

8 H. 6. 5.

11 H. 7. 4.

*unlawfull
Games.*

13 H. 8. 9.

1. Every City, Borough, and Market Town
that hath a Constable, ought also to have com-
mon measures sealed, and also common weights
sealed, at which the Inhabitants may freely
weigh.

2. The Major, Sheriffs, Bayliffs, Consta-
bles, and other head Officers within every Ci-
ty, Borough and Town where any such Offi-
cers be, ought under pain of fourty shillings
for every default, once every moneth at the
least, to make search (as well within Liberties
as without) in all places where any unlawfull
Games shall be suspected to be kept, and may
arrest and imprison as well the keepers of such
places as the haunTERS to the same, till they be
bound no more to keep and haunt such places.
And if any such Head Officer shall finde, or
know, that any Artificer, Crafts-man, Hus-
band-man, Apprentice, Laborer, Servant at
Husbandry, Journey-man, or Servant of Arti-
ficer : Or that any Mariner, Fisher-man,
Water-man, or Serving-man, doth play at the
Tables, Dice, Cards, Tennis, Bowls, Closh,
Coyting, Logating, or other unlawfull Game
out of *Christmas* time, or out of their Masters
house or presence in the *Christmas* time, unless
it be by the licence of such Masters as have
100 l. by the year, or above and then also that
playing

playing be within the precinct of such Masters House, Garden, or Orchard, then such head Officer may commit such offender to Ward, till he shall be bound by such obligation to the use of *The Keepers of the Liberty, &c.* in such sum, as to the discretion of such Officers shall be thought fit, that he shall not from thenceforth use such unlawfull Games.

3 In all Cities, Boroughs, and Towns, *Coopers.* where in no Wardens of *Coopers* be, the Ma-^{23 H. 8. 4.}jors, Sheriffs, Bayliffs, Constable, or other head Officers there, have power to search, view, and gage Barrels, Kilderkins, Firkins, and other vessels to be made there, and to take such advantage thereby, and in such manner as the Wardens of *Coopers*, within the Cirie of *London*, may take on every behalf.

4. If any Woolls or other Merchandizes, *Merchandizing.* be shipped to the Sraple in any suspected place ^{14 H. 6. 5.} adjoining to the Coast of the water, then Indentures ought thereof to be made between the owner, and the Major or Constable of that place; or otherwise such Merchandize shall be forfeited.

5. The Constable of every Borough or *Making of* Market-Town, or other Town may view, *Mault.* search, and survey all such Mault as shall be ^{27 Eliz. 14.} made or put to sale there; And if he shall finde any Barley-Mault made at any time (the moneths of *June, July* and *August* only excepted) but that the same shall have the space of three weeks (at the least) in the *Fat, Floar, Steeping,* and such sufficient *Floar, Steeping,* and such sufficient drying

thereof, and in these three moneths, the space of seventeen dayes at the least. And if he finde any person to put to sale any good Mault mingled with Mault not sufficiently made, or with Mault made of Mow-burned or spired Barley; or put to sale any Mault not sufficiently well trodden, rubbed, and fanned, whereby half a peck, or more, of dust may be fanned out of one Quarter thereof; then may such Constable (with the advice of one Justice of the Peace in that Shire) cause the same Mault to be sold to such persons and at such reasonable prices (under the common price of the Market) as to his discretion shall seem expedient.

All these things last aforesaid appertain only to the head Constable of Market and great Towns, and, as it seems, the High-Constables of Hundreds, and petty-Constables, and Tything-men of Parishes and Tythings, have no power nor charge at all therein. And yet beware of this, for perhaps they may be otherwise taken.

It is said upon the Statute of 7 Jac. 3. for the employment of money given for the binding of Apprentices. The Statute of 3 Jac. 12. against the destroying of Fish. The Statute of 1 Jac. 4. for the presenting of Recusants. The Statute of 1 Jac. 21. against them that are infected of the Plague. The Statute of 1 Jac. 29. against them that dress meat in the Lent, and some others; that upon these Statutes Borsholders, Tything-men, Head-Borows, and such like Officers being in Towns or Parishes (underneath Constables

bles that be there) have not to doe, nor may meddle, because such Constables be in comparison of them called head Officers; But where no such head Officers are, nor any Officers in the place that are called by the names of Constables, but that they are called Tything-men, Chief-Pledges, Borsholders; or by some other name there, out of doubt these Officers are intended by the word Constable within the Statutes, and they have the same authority and charge by the same Statutes as the Constables have.



CHAP. XI.

Of Church-Wardens, and
their Office.



Church-Wardens are Officers *Numb. 1.*
chosen yearly by the major *what they are,*
part of the Parishioners, according to the custom of the *and how they*
place, to look to the Church *are chosen.*
and Church-yard, and
things thereunto belonging. These now by the new Ordinance of the
ninth of February 1647. where they have been
used to be, are to be chosen every year on the

Monday or Tuesday in the Easter week, by the major part of the Parish, at a publique meeting; And they may choose one, two, three, or four, as they please. And if the Parish doe omit this Election, it loseth fourty shillings to the use of the Poor of the Parish. This choice also must be allowed under the Hands and Seals of two of the next Justices of Peace. And being thus chosen, they are to continue in their Office but one year, and no longer, except there be a custom for longer time, and except they be chosen again in the same manner at the years end, otherwise they are to be changed every year. And in case of miscarriage in their office, they are to be put out, and others chosen within the year. And albeit there be a Custom within the Parish, that the Church-wardens shall continue in their Office by the space of one year, two years, or more, (as in some places there is) yet in case of misdemeanor found in them about the execution of their Office, the Parishioners may at any time proceed to a new election of new, and remove the old Church-wardens; for there is no other remedy against this evil. In the choise of these Officers care must be had, as in the choise of Constables, that there be none but honest and able men chosen to the Office.

*Numb. 2.
Their Office
and Duty.*

For the discovery of the Office and duty of these Officers, these things are to be known. 1. That for some things belonging to their Office, they have a power and Office therein by the ancient Common Law: And for

for other things belonging to their Office, they have a Power and Duty therein, by certain Acts of Parliament newly made, by which their Office is enlarged. And for this last also, some things hereof doe concern the Church and Church matters. Other things doe concern other matters. Some things also they may doe *Ex Officio*, and without any warrant from others. Other things they may doe only by warrant from others. We shall speak first to the matter concerning the Church.

2. By the ancient Common Law, the Office of the Church-wardens doth lye in these things. 1. They are to see to, and preserve the Goods of the Church (*viz.*) the Books, Communion Cups, Linnen Cloaths, and other decent Ornaments and Furniture of the Church which they doe finde there, when they enter into their Office. And if there be any lack in these things, they are to see and provide them, and being provided, preserve and keep them also. And for this purpose (in favour of the Church) the better to enable them herein, the Law doth make of them a kinde of Corporation (*viz.*) persons enabled by that name to take moveable Goods or Chattels, and to sue and to be sued at Law concerning such Goods, for the use and profit of their Parish. For the property of the Goods of the Church is in them, and they are by that name enabled to take them, and to be sued for them, for the use and profit of the Parish. And therefore these Officers may have and enjoy Goods to the use

Numb. 1.

In providing and keeping the church Goods.

Corporation.

of the Church. And a Man may well, in his life time, or by his last Will, give or grant monie or other movable things to the Church-wardens, or to the Parishioners of a Parish, for the Reparations of a Church, or for the buying of Books, Communion Cups; Linnen Cloaths, or other decent Ornaments or Furniture for the Church. And this kinde of Gift is so much favored in Law, that it is not needfull therein to have any Writing or words at all. For if a man doe but buy a Bell, and hang it up in the Steeple; or make a Pew, and set it up in the Church, and doe make no words or writing hereof; by this the Bell and the Pew are so dedicated and given to the Church, that the party that did owe them, can never have them again. And if any Goods or Chattels be devised to the Church, and be kept from it, the Church-wardens may by Suit recover it in a Court of Equity. But they can have no Action by the Common Law, to recover any such thing given, of the which they never had the possession: But if the Church-wardens be once possessed of any Goods or Ornaments belonging to the Church, and afterwards the same things be taken from them; they shall have the same remedie for these things, as other men have for the Goods taken from them; And therefore if such Goods be stollen, the Church-wardens may have an Appeal of Robbery against the taker of them. And if they be otherwise taken away or abused, as if a Bell be broken, or the like, the Church-wardens may

*Actions by, or
against them.*

may have an Action against him that doth it, albeit he be the Parson or Vicar himself. And in this Action they shall recover damages to the use and benefit of the Parish, and not to their own use. And yet these Officers have no such property in the Goods of the Parish, as thereby to have power to give, sell, release, hurt, or impair them; for they are Officers trusted for the behalf of the Parish; and therefore have no power in the Goods of the Parish, but for the good and profit of the Parish. And therefore if they shall so doe, or otherwise unprofitably waste or mis-employ the Goods of the Parish, the Parishioners may remove him, and choose another, although it be before his year be expired. Also it seems the party that doth steal or take away any Goods belonging to the Church, may be punished for it, as for a Sacrilegious offence. And if these Church-wardens, from whom the Goods be taken, dye, or be out of their Office; their successors (as some think) may sue for and recover them, or the damages for them: Or if these Church-wardens may not, the old Church-wardens may sue for, and recover the same. And if anything have been used time out of minde, to be paid towards the Church, and it be now withheld, the Church-wardens may sue for the same in a Court of Equity. But as touching any Estate of Lands, or the profits of any Lands, the Church-wardens are not to meddle at all; insomuch, That if the Walls, Windows, or Dores of the Church be broken down, or the Trees in the Church-

Church-yard cut down, or the Grasse thereof be eaten up; the Parson or Vicar, nor the Church-wardens shall have an Action for it; for they are a Corporation onely as to moveable Goods. And therefore they cannot take Estates of Lands to them, by name of Church-wardens only, in Fee-simple, for life or years, to the use of the Church. And if a Feoffment be made of any Land to others, to the use of Parishoners, or to the use of the Church-wardens of a Parish: this is a voyd use in Law, and they shall take nothing by this conveyance. 37 H. 6. 30. 11 H. 4. 12. 8 Ed. 4. 6. F. N. B. 91. 13 H. 7. 27. 12 H. 7. 10. F. N. B. 52. 54.

*Numb. 4.
In making of
Reparations.*

2. These Officers are bound by the very common Law, to take care, and look to the Body of the Church and the Tower, that the same be sufficiently repaired, kept and maintained; and that if any of the necessary Ornaments therein appointed for the worship of God, be decayed, that they be repaired again; for there must be alwayes in a readines, all things necessary to the preaching of the Word and Administration of the Sacraments. And they are to see that their Bells be in case, and fit for use. But if the Chancel, (the which in most, if not in all places, is to be repaired by the Parson) or any Isle in the Church, the which any man doth claim by prescription to himself, or his house in particular be in decay, the Church-wardens are not bound to reparaire this. And now by the new Ordinance of Parliament

Parliament they may raise money, not to build a new Church quite down, nor to reparaire a Cathedral or Collegiate Church, but they may raise money to maintain or reparaire a Parochiall Church, provide Books, Bread and Wine for the Sacrament, reparaire *Bread and the Inclosures of the Church-yard, or bury-wine.* ing place, and to all other things that doe belong to their Office. And further, they must make such reparations as any Justice of Peace shall under his Hand and Seal appoint about any part of the Church.

3. These Officers (as it seems) by the *Numb. 5.* Common Law are to order the Seats in the *In disposing* Church, and to appoint every man and *of Seats.* woman where they shall sit. And yet if any man have an Isle, or a seat in an Isle, or by-place out of the body of the Church, unto which he may make a right by prescription, as that which time out of minde hath belonged or appertained unto his house; in this case, neither the Church wardens nor any other can turn him out of it. And albeit one may not prescribe to have a Seat in the body of the Church, as belonging to his house, yet if the case be so, that a man hath time out of minde had such a Seat or Seat-place in the body of a Church as appertaining to his house; in this case the Church wardens ought not without very good cause to remove him.
12 H. 7. 27.

4. These Officers also may by the very *Numb. 6.* Common Law, to enable themselves for the *In making and* execution of their Office in the Particulars *levying of* aforesaid, may set Rates and Taxes upon the *Rates.* Parishioners

*In making
Rates.*

Parishioners for the payment of money. And as touching this point, and to shew how the law is at this day upon the new Ordinance, these things are to be known. 1. These Officers with the Over-seers of the Poor of the Parish, or the greater part of them together, must now make these Rates; for if they be otherwise made, there is no means to recover them. 2. These Rates may be made before there be present need, as before the Church fall, or be in danger of ruine, or the like. 3. These Officers may by these Rates raise money for the buying of Books, providing of Bread and Wine, repairing of the Church-yard or Burying place; for the *Kings Bench* and *Marshalsey*, and other Payments. And so also, as it seems, for the repair of the Church, the Tower, and the Bells. 4. For this, they may rate every Inhabitant and Occupier of Lands, Tythes, Improprate Woods, or other Hereditaments within the Parish. 5. The Church-wardens must give publick notice in the Church, when and where the Rate is to be made. Howbeit, if the Parishioners after such notice given, will not come, or coming, will not agree to the Rate; in this case the Church-wardens and Over-seers of the Poor alone, or the major part of them, may make the Rate: But a Rate made now without giving notice thereof before hand to the Parish, is not good. 6. This Rate must be equall, and for this cause, It must be upon every Parishioner, and not upon some of the Parishioners only; and it must be set upon every

every one of them equally, (*viz.*) according to the quantity and quality of his Estate and Lands within the Parish, wherein they may rate by the Yard, Acre, or otherwise, as they think fit; so as it be equall and according to the true value, by an equall proportion. And if one of another Parish have Lands in the Parish where the Rate is made, in his own occupation; in this case they may rate him to Church Payments, according to the value of his Land. And this, Albeit there be no house upon it, and albeit the Owner and Occupier dwell in another Parish; for as to this purpose he shall be called a Parishioner; and therefore he may, *Parishioner.* if he please, come unto, and frequent the Church of that Parish, as he doth the Church of the Parish wherein he lives. And where the Land-lord and Tenant both doe live out of the Parish, it seems, the Church-wardens may rate either of them at their Election. And yet some hold, that in these and such like cases, the Rate must be alwayes set upon the Occupier of the Land, and not upon the Land-lord. And if the Farmer or Occupier of the Land doe live within the Parish, where the Rate is made, there he onely, and not the Land-lord, shall be rated; and the Tenant is to be rated for the whole value of the Land; and therefore the Land-lord is not to be rated again for the Rent he doth receive out of the Land; for then the Land would be twice rated: And in this case there is a Parishioner and Inhabitant chargeable. And Receipt of Rent out of a Parish
for

for Land within the Parish, by a man that lives in another Parish, will not make him a Parishioner. But if he have Land in the Parish in his own occupation; there he may be rated with this difference, he may be rated towards the repite of the Church only. For as to the repaire of the Sears of the Church providing of Church Ornaments, Sextons wages, and the like, he shall not be charged therewith, *Brownl. 2. part 10.* And yet, in case where the Land-lord and Tenant both live within the Parish where the Rate is made, there the Raters may set the Rate upon which of them they please; yet so as they be not both rated for the same thing: but a man that doth neither dwell within the Parish, nor hath any Land within the Parish, cannot be rated at all towards the Church Payments. And therefore, if a Butcher come thither, it being a Market Town, to sell Meat, and have a fixed Stall there; this will not make him a Parishioner, nor chargeable to the Church.

7. After the Rate is thus made by the Church-wardens and Over-seers of the poor, it must be put in writing, and the Hands of the Church-wardens and Over-seers of the poor, and of the Parishioners that are agreeing to it, it will be good to have annexed to it. But this is not necessary; for a Rate may be good without any Hands subscribed, if it be duely made. 8. the Rate thus made by them, must be confirmed by the two next Justices of Peace. 9. If any one refuse to pay them, being thus made, upon demande, the present or subsequent Church-wardens, may

Numb. 7.

may by Warrant under the Hands and Seals of the two next Justices of Peace, levy them, and all the arrears thereof; and two shillings six pence for the neglect upon the Goods of the party appointed to pay it. 10. If any be *Over-rate.* grieved with the Rate, relief is to be had before the Justices of Peace, at their Quarter Sessions. Or if the Rate be read by practise and conspiracy to oppress a man, as for Alimony, or to pay a debt, and in cases where the Church-wardens or Over-seers have no Power, there perhaps they may make themselves liable to an Action of the Case or Action of Trespas.

5. These Officers are to relieve, and dispose of the Rents of Lands or Annuities, given towards repair of Churches and Church duties according to the intent of the *Donor.*

6. The next thing these Officers by the *Numb. 8.* Common Law, are bound to doe, is, When *In delivering* they are going out of their Office, they are *over the* truly to deliver up to the Parishioners, *Church goods,* whatsoever Money or other things of right, *and making an* belonging to the Church or Parish, they have *Accompt.* in their hands; and it is the best way to deliver them by Bill indented to the succeeding Church-wardens.

7. The last thing these Officers are bound by the Common Law to doe, is, to give up a true and perfect Accompt of all their Receipts and Disbursements in the time of their Office: The which, it is best to doe to the succeeding Church-wardens. And this if these Officers refuse to doe, their succeeding Church-

Church-wardens may now compell them to by an Action of Accompt at the Common Law. But now by the new Ordinance, they are bound within four dayes of their Office ended, and new Church-wardens chosen, to give an Accompt to their Successors and the two next Justices of Peace, and to pay over the Money, in their hands, to their Successors. And refusing this, they are to be committed without Bail, till they doe Accompt, and pay the Moneys in their hands. And by this Writ of Accompt, at the Common Law, the present Church-wardens may compel their Predecessors to give an Accompt of, and to answer for their doings, during the time of their Office: And if they have done the Parish any wrong, to make amends and satisfaction for the same, to the use of the Parish, for the harm it hath received by their default. And in this Accompt, the old Officers shall have allowances for all the needfull sums of Money laid out, or spent by them, either upon the Reparations of the body of the Church, Tower, or Bells; or for relief of the Prisoners in the Gaol, or otherwise where the Law doth enjoin them to pay or disburse them.

Allowances.

And now having dispatcht the Duty and Power of these Officers, commanded, and given to them, especially by the ancient Common Law; we come to see wherein their Office is enlarged by some Acts of Parliament: And this we shall finde to be in these particulars following.

First.

First, We have shewed before, how by *Numb. 9.* the late Ordinance of Parliament, these Officers may without warrant, *Ex Officio*, make levying of and set Rates; and that by warrant under Rates and For-the Seals and Hands of two Justices of *seitures &c.* Peace, they may levy the same, and the arrears thereof, and two shillings six pence by distress and sale of Goods. And that they, may, and must also execute the Warrants of the Justices of Peace, in levying all the penalties appointed for any offence within that Ordinance of Parliament; and also, in levying of all such money as shall be remaining in the hands of any of their Predecessors upon their Account, by distress and sale of Goods.

Secondly, These Officers are to joyn with *Numb. 10.* the Over-seers of the Poor, and some others, *In employment* in the employment of money given for the *of money given* binding of Apprentices, upon the Statute *to charitable* of 7 Jac. 3. *uses*

Thirdly, Any one of these Officers may *Against Pro-* upon sight and knowledge of any offence *phaners of the* done against any Law made for the obser- *Lords day.* vation of the Lords day, dayes of Humiliation, or Thanksgiving, doe the same execution as Over-seers of the Poor may doe.

Fourthly, these Officers together with *Against May-* the Constable, may take down a May-pole: *poles.*

And either of these Officers, by Warrant from a Justice of Peace, must levy the forfeiture appointed to be paid, for the setting and keeping up of a May-pole. *Ord. April 6.*

1647.

Fifthly, These Officers alone may levy *Against Stage-* *the*

CHAP. II.

The Church-wardens Office.

the forfeiture appointed to be paid by such as are present at Stage-plays. And these Officers, and the Constables together, may levy all the Money Collected of the Comers to it, to the use of the Poor. *Ord. Feb. 11. 1647.*

Against superstitious Reliques.

Sixthly, They must, being commanded by any Justice of Peace, take care with the Over-seers of the Poor, to take down and demolish all superstitious Reliques at the charge. And the Church-wardens being required by the Justice of Peace, must repair it as before, at the Parish charge. *Ord. May. 1644.*

*Numb. II.
Against Swearers.*

Seventhly, These Officers may apprehend Swearers, and bring them to a Justice of Peace to be punished, as Over-seers of the Poor may doe.

Against him that disturbeth a Minister or abuseth the Sacrament.

Eighthly, If any of his own Authority shall willingly, and of purpose, by open and overt word or deed, maliciously or contemptuously molest, or by any other unlawful wayes, disquiet or abuse any Preacher lawfully Authorised in his Preaching or Divine Service; or otherwise contemptuously, or of his own Authority abuse, deface; or otherwise unreverently handle, or order the Sacrament of the Body and Blood of Christ in any Church or Chappel: Such persons, their Aiders and Abettors, may immediately after the thing done, be forthwith Arrested by the Constable, these Officers, or any other person then present, and carryed to a Justice of Peace, to be proceeded against according to the Statute. *Stat. 1 M. Chap. 6.*

Ninethly

Ninthly, If any one doe without lawfull *Against them*
 licence, eat any Flesh upon any dayes, now *that eat Meat*
 observed for Fith dayes [the which (as it *on Fasting,*
 seems) are Fridayes and Saturdayes in every dayes.
 week in the yeer, but in *Christmas* and *Easter*
 week, and the four Wednesdays in the
 four *Ember* weeks] he doth forfeit Twen-
 ty shillings for every time, and one Moneths
 imprisonment without Baile or Mainprise.
 And every person, in whose House the same
 shall be eaten, knowing thereof, and not
 disclosing it to some Officer that hath power
 to punish it, shall forfeit for every such
 offence Thirteen shillings four pence; and
 one third part thereof, is to goe to the Poor
 of the Parish where the Offence is done, to
 be levied by the Church-wardens of the
 place, by Warrant from the Iustices of
 Peace, &c. So that by this Statute, If any
 such Warrant be directed to these Officers,
 they are to execute the same. *Stat. 5 Eliz.*
5. 27 Eliz. 11. 35 Eliz. Chap 7. And
 the Licence to be given for eating of Flesh
 to any person for notorious Sicknes, by the
 Minister of the Place, must be Registred (if
 the Sicknes continue above eight dayes
 after the Licence granted) in the Church
 Book. And this must be done, by the
 knowledge of one of the Church-wardens
 there.

Tenthly, These Officers are to joyn with *Numb. 12.*
 the Over-seers of the Poor, in the execu- *About the*
 tion of their Office throughout; for they *Poor.*
 have an equall Authority and Charge with
 them in the Execution of the whole

Office; nay these in truth are the principall Officers in this Office, and the Overseers are but Assistants to them; For so are the words of the Law, that they shall be joyned with the Church-wardens, &c.

About killing of Hares, Pheasants, &c.

Eleventhly If any forfeiture be by any offence, about killing Hares, Pheasants, or Partridges, and the Justices of Peace force the payment thereof to these Officers, they are to receive the money, and see it imployed to the use of the Poor of the Parish. *Stat. 1 Jac. Chap. 27.*

In levying money upon Rates, for the Prisoners in the Kings Bench, and Marshalsey

Twelfthly, These Officers are to joyn with the Constables of the place, to rate the whole Parish towards the payment of the County Rate of the Justices of Peace, for the relief of the Prisoners in the *Kings Bench*, and *Marshalsey*. And being rated, to pay the same to the High Constable of the Hundred once every quarter, under pain to forfeit ten shillings for every default. *43 Eliz.*

For Mariners and maimed Souldiers.

Thirteenthly, They are also to joyn with the Constables, to rate the whole Parish towards the payment of the Justices Rate, for the County; for the relief of the Poor Mariners, and maimed Souldiers. And to collect and pay the same to the High-Constable, ten dayes before every quarter Sessions: under pain to forfeit twenty shillings, for every default. *43 Eliz.*

For the Prisoners in the Gaol.

Fourteenthly, These Officers alone are to rate and levy the County Rate, made by the Justices, for the relief of the Prisoners in the Common Gaole, and to pay the same quarterly to the High-Constable of the same Hundred,

Hundred, under pain of five pounds; and this money, if the Church-wardens doe pay before they doe Collect it, it shall be allowed them again upon their Accompt.

Fifteently, Where an Offender that is *To carry a Prisoner to Gaol.* committed to Prison, hath not Goods sufficient to defray the charge of conducting him thither; The Constables and Church-wardens, and two or three of the Parshioners, may make an indifferent Rate for the same. And any one of these Officers, by warrant from the Justice of Peace, that did commit the Offendor, may levy the same Rate on the Parshioners Goods.

Sixteently, These Officers are, upon a *Numb. 13.* Warrant sent to them, from any that have *Against Drumpower,* to levy the forfeitures for the breach of *cards.* any of the Lawes, touching Drunkards and drunkenness: And they are then also to see that they doe imploy the same, to the use of the poor of the place.

Seventeently, These Officers are to joyn *Against them* with the Constables, to execute warrants for *that destroy* the levying of the forfeitures, against them *Fish.* that destroy Fish, &c.

Eighteently, They are also to joyn with *To choose Sur-* the Constables in the chusing of Supravisors *veyors for the* for the High-ways; and in the setting *High-ways.* down of dayes for the work; and in the oversight of the High-Constables Accompt, for the moneys they doe receive by any forfeiture. They may also with the help of two Justices of Peace, *Quorum Unus,* force *Force High-* High-Constables that have received any *Constables to* money forfeited for defaults of *High-accompt,*

wayes, to accompt for it; and pay in what is in their hands, to be imployed about the High-wayes.

About a Rogue. Nineteenthly, If a Rogue be brought and rendred to these Officers, they must receive him; or else they forfeit five pounds. *Stat. 35. Eliz.*

About Presentment. Twentiethly, 1. These Officers being required, must attend the Justices of Peace, and with the Over-seers of the Poor, give to the Justices an Accompt of what stock of money hath been raised by Rates, or is otherwise settled amongst them, and how they are imployed; and what Apprentices are placed, or fit to be placed; and of the rest of the things concerning their Office. 2. They must also present upon their Oathes, all Offences that are done within their Parish: against the Statutes made for the suppressing of Drunkenness, and other disorders of Ale-houses. 3. They are to joyn with the Constable in presenting of Popish Recusants.



CHAP. XII.

Of the Over-seers of the Poor, and their Office.



THe Overseers of the Poor, *Numb. 1.* are certain Officers appointed yearly to be joyned and assistant to the Church-wardens of the Parish, in the oversight and ordering of the Poor of the Parish. And they are to be chosen and made by two or more of the Justices of Peace of the County (whereof one of them must be of the *Quorum*) dwelling in or neer the Parish or Division, &c. who are yearly, under their Hands and Seals, at Easter, or within a moneth after, to appoint four, three, or two substantial Householdiers (according to the greatness of the Parish) to be joyned with the Church-wardens of the Parish: And all these together, are to look to the Poor of the Parish, *Stat. 43 Eliz. chap. 2. 3. 1 Jac. chap. 25. 3 Car. 1.*

CHAP. 12.

The Overseers of the Poor.

Numb. 2.
Their Office
and Duty.

For the discovery of the Power and Duty of these Officers, these things are to be known. 1. Some things they are to doe in their Office; they are to doe it, and may doe it *Ex Officio*, without any Warrant from any other. And some things they may doe only by Warrant from others: And some of these things concern the Poor; And some of them doe concern other matters. As to the first of these, we are to know these things. 1. That in this Office, the Church-Wardens of the place have an equall Authority and Charge with the Overseers of the Poor; and therefore, howsoever it be the common course in most places, for the Church-wardens to neglect it altogether, and not to meddle at all with it; yet it is a common neglect punishable upon the Church-wardens, and fit to be redressed. But if there be but one Church-warden within the Parish, this doth suffice; and the Overseers of the Poor, and this Church-warden together, may execute the Office well enough. 2. The major part of them, without the rest, may doe any thing belonging to their Office. 3. They must have the consent of two Justices of the Peace (one of which must be of the *Quorum*) either in general or in particular, to every thing they doe in their Office: And yet, it seems, they may set up and use a Trade, by the consent of one Justice of Peace, where there are not two Justices within the limits; Nor is this consent otherwise necessary, then as herein is after set forth.

Numb. 3.

4. The Office of these Men lyeth in these things.

things. 1. In general : They are to take *In setting the*
order with the consent of two Justices of Peace, *Poor on work.*
one of the *Quorum*) to set their Poor awork,
and if need be, for that purpose, to set up a
Trade, place out their Apprentices, relieve
the impotent, and such as cannot work, or
cannot live by their work. But more parti-
cularly, 2. They, with the consent of two
or more Justices, may set up and use any
Trade, only for the setting awork and relief
of the Poor of their own Parish, without breach
of any Statute. 3. They are to set to work the
Children of such, whose Parents shall not,
by them, be thought able to keep and main-
tain their Children, and such persons, married
and unmarried, as, having no means to main-
tain themselves, use no ordinary and dayly
Trade of life to get their living by ; all those
that cannot get work elsewhere : And if any
person so appointed by them to work, shall re-
fuse so to doe, or any others that are able,
if they refuse to work for the wages
assessed, he may be sent by any Justice of
Peace to the common Gaole, or House of
Correction ; not to their place of birth or last
dwelling.

2. The more part of them, with the con- *Numb. 4.*
sent of the Justices as aforesaid, may and *In binding*
ought to binde forth and place to be Appren- *Apprentices.*
tices the Children of such, whose Parents
they judge unable to maintain their Chil-
dren ; But they may not binde any other
mens Children so : And they unto whom
they are so bound, may, and must receive
them, and keep them as Apprentices : In
which

which particular, these things are to be known.
 1. Two Justices must be agreeing to what they doe herein. 2. So they doe binde them to Weavers, Masons, or any such like Trade; or they may binde them to Husbandry or Houſwifery. 3. It is said they may binde any above seven, and under Thirteen years: And the Man-Childe may be bound until he be of the age of twenty four years, and the Woman-Childe untill she come to the age of one and twenty years; or be married. 4. These Officers may, with the Justice of Peace, help to compell any man within the Parish, that they think fit, to take such a poor Childe to be his Apprentice, and that without any money at all, howbeit in this case it is meet that some respect be had; for if the Childe be yong, and the party to whom they would place it be not very able, they may give him money if they will; and it is fit that some money be given, as the Overseers and the party can agree. And if they cannot agree, as the next Justices of Peace, or the Justices of Peace at the Sessions shall set down. *And this hath been the Resolution of the Judges.* 5. All men that have, or may have use for Servants, are bound to receive such Apprentices themselves, or contribute towards the placing of them with others. And albeit a man be not a Tradesman, but a Knight, Gentleman, Clergy-man, or Yeoman; and albeit he doe not keep House, but be a Sojourner, if he use Husbandry, Cloathing, Graſing, or the like: or howsoever his case be, if by his Calling and Profession, he must entertain and use Servants

vants of like quality; he may be compelled to take such an Apprentice. Resolved by the Judges. 6. If a wealthy man live so privately, that he keep few or no Servants, and leadeth such a life, that he hath no need of such a Servant; yet he may be compelled to take such an Apprentice himself, or to give money towards the placing him with some other. And this notwithstanding, they must bear their ordinary Rates to the Poor, as other men doe. *Rates.*

Resolved by the Judges. 7. If there be not Masters enough within the same Parish, to entertain the poor Children there, the Justices of Peace may compell men of other Parishes within the same Hundred to take them: And if there be not enough within the Hundred, the Justices of the Peace, at their Sessions, may compell them of any other Parishes, within the County, to take them. Resolved by the Judges. 8. These Apprentices may be bound to a man, either in regard of his ability, or in regard of his Farm. And in the last case it seems reasonable that he goewith the Farm. 9. This binding must be by Indenture, or it is not good. *Indenture.* 10. The Indentures thus made by the Church-wardens and Overseers of the Poor, with the allowance of the Justices; and this binding by them, are as effectually to all purposes, as if the Children were of full age and did binde themselves by Indentures. 11. All such as are so bound, according to 43. *Elix.* may be safely received as Apprentices, 12. *Car.* 4. If any man refuse to accept of an Apprentice being thus placed to him, he is by the Justices

ces of Peace, to be bound to appear at the next Sessions or Gaole-delivery : And if he refuse so doe, he is to be sent to the Gaole, till he doe so. And if he be bound to appear at the Sessions, and doe appear, and then refuse (without a sufficient excuse to be allowed of the Justices of Peace) he is by them to be bound to the good behaviour ; or if he refuse so to doe, to be imprisoned till he doe so ; and he may also be Indicted and Fined for his contempt. Resolved by the Judges. 13. If a special Rate be set on any man to help place a poor Childe Apprentice, it may be levyed upon his Goods as other Rates are levyed. Resolved by the Judges. 14. If the Parents of such poor Children, refuse to let their Children go to be Apprentices, or intice them away, being bound ; the Parents themselves may be sent to the house of Correction.

*Numb. 5.
In relieving the
Poor. And what
Poor they are to
relieve.*

3. The next main part of their Office is, to give relief to, provide houses for, and to help them that are poor, and not able to live by their work : For this we must know, that there are three sorts of Poor : 1. Such as are poor by impotency ; as first, the aged decrepit persons, that are past labor ; Secondly, the Infant Fatherless and Motherless, not able to work ; Thirdly, the person naturally disabled in Wit or Member, as the Ideot, Lunatick, Blinde, Lame, &c. Fourthly, the person visited with sickness, who thereby, for the time is impotent. All these being impotent, and not able to Work, are to be found and provided for, by the Overseers, or necessary relief.

2. Such

2. Such as are so by Casualty; as first, he that is casually maimed in his Calling, as the Souldier, Laborer, &c. Secondly, the person that is decayed by Fire, Water, Robbery, Sureriship, &c. Thirdly, the poor man overcharged with Children. All these, and such like, having no sufficient means to maintain themselves, are to be holpen and set on work by the Overseers; and being not able to live by their work, are further in Charity to be relieved in some reasonable proportion, according to their wants.

3. The thriftless Poor; as first, the riotous and prodigal person that spendeth at play, drinking, &c. Secondly, the dissolute person, as Strumper, pilferer, &c. Thirdly, the sloathfull person, that doth refuse to work, or doth wilfully spoyl or imbezle his work. Fourthly, the Vagabond that will abide in no service or place. Fifthly, such as will work but for the wages taxed or usually given. And for all these latter sort, the House of Correction or Common Gaole is the fittest place; and to the House of Correction is he to be sent, and not to his place of Birth, that will not work at the wages assessed or usually given: but if they have able bodies, they are to be compelled to labor; for the Rule of Christ is, That such as will not labor, must not eat, 2 *Thes.* 3. 10. And yet if these prove unable to work, then it seems they must have reliefe from the Parish as well as others.

2. They are not to take care for houses or other relief, for such as are able to work,
and

and have, or may have work, nor yet for their Children; for they are by their work to maintain them also: But if such be over-burthened with Children, it will be good for the Overseers to place some of their Children Apprentices: and if these cannot have work, the Overseers must procure them work; for none may beg in the High-ways within or without their own Parish, nor at any mans dores without their Parish, by any license whatsoever, nor at any mans dore within the Parish, without order of the Overseers of the Poor. 3. Nor are they to take care of such as are able to live; and therefore if any such person travel through a Parish with Children, and the Father dye and leave them; in this case the Parish is not bound, but in Charity, to relieve them. 4. Nor for such as, having nothing to live by, have able bodies, may have work and will not work: They are not to take care to relieve Rogues, for they are to be sent away.

Numb. 6.

*In settling of
Poor, and where
they shall be
settled.*

6. They must take care for such Poor as have Parents or Grand-Parents, Children or Grand-Children, able to relieve them as well as others, till they can be forced to help them. For the Justices of the Peace, at their general Sessions, may rate the Father or Grand-father, Mother or Grand-mother, Children or Grand-Children, being able to help relieve any poor People, and force them to pay it, if they live within the County. And yet if a Woman, having a Bastard take a Husband, it seems he is not bound to keep the Bastard, unless he have an Estate by her.

ber. And if the place be not able to relieve their Poor, two Justices, *Quorum unus*, may charge any other place within the Hundred to help: And if the Hundred be not able, the Quarter-Sessions may charge the whole County.

7. They must take care for all such as are lawfully sent to, and settled amongst them, if they prove impotent. But by the way, as to the point of settling these Rules and Cases following, are to be known.

1. He that is a Native, Householder, Sojourner, Apprentice, or Servant, within a Parish, and doth live there in Peace but three weeks or a moneth together, is said to be settled there: But he that passeth through a Town only, or is in another Mans House, as an Inmate two or three dayes together; or lyeth in an out-House or Barn, for a longer time, having no house to dwell in; or a Childe at Nurse there; or a Scholar at School there; or in the place being an University; or as a Traveller in an Inn there, is not said to be settled there by this. And therefore if any impotency happen to any such, the place shall not be charged, but they shall be sent to the place where they or their Parents are settled, or where the Children were settled. Resolved of the Judges.

2. If a person be once duly settled in a Parish, he may not be after removed, but there he must be relieved, or set awork, as his case is; for no man is to be put out of the Town where he dwelleth, nor to be sent to his place of Birth or last habitation, but a
vagarant

vagrant Rogue ; And therefore they that have Houses or Services in Parishes , when their Estates or Services are ended , are to get new Houses or Services , and work if they be able ; for in this case the Parish is not to provide for them : But if they be impotent, they must be there relieved, for they may not (in these cases) be sent to their places of birth, or last dwelling. And yet it is said in these cases, if any of these persons shall be taken begging abroad out of the same Parish, that in this case such person may be sent from the place where they are taken begging, as a Vagabond to the place of his birth. Relolved of the Judges. But if he goe of his own accord into that Parish, and doe not beg there, they cannot send him back ; for none but a Rogue can be sent back to any place from whence he came. *Pasch. 7. Car. B. R. per Ch. Just.* And those yong Children whose Parents are dead, are to be set a work , relieved or maintained at the charge of the place where they are dwelling at the time of the death of their Parents, and are not to be sent to their place of Birth, &c. For if the Parents be not Rogues, the Children cannot be Rogues till they wander and beg.

3. For further opening this matter , take these Rules. First, the Law unsettlth none who are lawfully settled. Secondly , none may be settled by practise. Thirdly , none can be said to be settled in that place where he is in no quiet, but continually interrupted by complaints to Justices of Peace, their

Warrants

warrants or other disturbances of the Parishioners, or Over-seers of the Poor. Fourthly, no settlement can be made by composition and agreement. Fifthly, no settlement can be made by an illegal remove. Sixthly, nor can any settlement be by any mans being in a Parish obscurely, and in a skulking way, that the Parish cannot take notice of him

4. For the opening and illustrating of these Rules, take these Examples and Cases.

1. If a Rogue be taken at *A.* and he will not confess, nor can they finde the place of his Birth, but he saith that his last habitation was at *B.* whereupon he is whipped sent to *B.* and there he confesseth the place of his Birth to be at *C.* In this case, without any new vagarancy, they of *B.* may send him to *C.* Resolved of the Judges. Secondly, If one that hath a Family, take a house in a Parish for one year, and before the end of the year, he is forced out of the possession of it, and then goeth into another Parish and take part of a house, and is there as an Inmate but one, two, or three dayes, he is put out from thence; and then for want of a house lieth in a Barn in a third Parish, and there the Husband is sick, and Wife delivered of a Child: Now in this case they shall be sent to, and settled in the first Parish, where his house is, and from whence he was lawfully removed; for none may be so forced to turn Vagarants. Resolved of the Judges. Thirdly, a Souldier wounded in the late Wars before *May*, one

L thousand

thousand six hundred fourty seven, must be settled in the place where he was settled when he took up Arms. *Ord. May* one thousand six hundred fourty seven. Fourthly, If an Apprentice or a Servant goe out of that condition, he cannot be thrust out of the place, but must continue there, and be disposed of as his case requires. And if the Master of an Apprentice die before, or within the time, his Executors or Administrators must provide for him (if they be able) otherwise; and howsoever if the Apprentice become impotent, the Parish must doe it; and so it is if he be placed by the Churchwardens. Resolved of the Judges. And if a Servant be got with Child, and then goeth out of her Masters Service, before or after it appear she is with Childe, and the reputed Father is run away, or poor; in this case, not the Master, but the Parish shall be charged. Resolved of the Judges. Fifthly, The Wife regularly is to goe with the Husband, albeit he be a Servant. Resolved of the Judges. And if a Husband and Wife be Roguing, and they have a house in another Parish, though as an Inmate, they may be sent thither. Resolved of the Judges. And generall Children Seven years old, and vagrants, must be sent to and settled with the Father or Mother, or Mothers Husband; and if he be dead, the Mother where she was born or last dwelt the space of a year. And being thus settled, they must there remain, and not be sent away from thence to their place of birth; though after their Parents

rents die or run away, or the Children be above Seven years old, or doe turn vagarant in that Town; for they must be there set on work. Resolved of the Judges. If a woman have a Bastard, and then take a Husband; it is said he is not bound to maintain this Childe, unless he have a sufficient Estate by his Wife to doe it, 10. Car. So held by the Sessions in the County of Wilts. And if a Rogue, whose last place, or place of birth cannot be known, have a Wife, and Children under seven years old, they must goe with the Husband to the place, through which they were last wilfully suffered to pass without punishment, where the Children are to be maintained by their Fathers work, though they be sent to the House of Correction. *Dalt. J. P. 14.* If one hire a House in *A.* or have no House in *A.* and live there with his Wife and Children, and binde himself to serve one in *B.* In this case, the Wife and Children must remain in *A.* But if he hire a House in *B.* then they must be all in *B.* And Children, whose Parents are dead, are not to be sent to their place of birth, &c. If they be like to be a charge; for the Parents not being Rogues, the Children cannot be Rogues, unless they wander or beg: in this case therefore they must be maintained at the charge of the Parish where the Father dyed. But if a travelling woman hath a Childe sucking on her, be sent to Gaol and then hanged for Fellony, the Child shall not be charged on the Parish where she is hanged; but it shall be sent to, and settled

in the place where she was born, if it can be found, otherwise to the place where she was taken.

The Bastard Childe, the Mother, or reputed Father, being not able to maintain it, must be with the Mother so long as it is in the condition of a nursing Child, and then it must be sent to the place of its birth: And if one be delivered of a Bastard Childe in one Parish, and after the Mother goe into another Parish with it, or become vagarant, so that she is sent to the place of her birth; the Childe being under seven years of age, is to be sent to the place of his birth, and not settled with the Mother. Resolved of the Judges.

If a Woman settled in a Service, hap to be with Childe, which is like to be a charge, the reputed Father being gone or poor, the Parish where she is must be charged; but if she be in another Parish and settled, there she must continue. Resolved of the Judges. And therefore if a Woman unmarried be hired Weekly, Half-yearly, or Yearly, in one Parish, and there is begotten with Childe; and then goeth into another Parish, where she is settled in service or otherwise, two or three moneths; and then she appear to be with Childe, and it is like to be charge to the Parish, the reputed Father being gone or poor; in this case she is to be settled in the Parish where she is not, where she was begot with Childe. Resolved of the Judges. And if such a Servant be got with Childe, and then goe or be legally put out of her
Masters

Masters service, the Parish, not the Master, must be charged with it. Resolved of the Judges. So if a Servant be with Child when she is retained, and for this she is afterwards by a Justice of Peace discharged of the service within the time, or she be with Childe and her time be expired, and she not able; the Parish, not the Master, shall be charged herewith. Resolved of the Judges.

4. The Justices of the Peace in their Quarter Sessions, if any question be about these things, doe settle it according to these Rules.

5. Such as doe remove any contrary to these Rules, may be fined; and if any be sent to any place against these Rules, they are to be sent back again to the place from whence they came. *Stat. 43 Eliz.*

These Officers must provide houses as well as victuals for their Poor, and therefore they may by order of the Quarter Sessions, and leave of the Lord of the Mannor, first had in writing under his Hand and Seal, build any house for the impotent Poor of the Parish in any waste part of the Mannor, and they may place more Families than one therein, as Inmates, without any danger: but then this house must not be afterwards converted into any other use; for so it may become a Cottage afterwards.

They are to doe their work by and with *Numb. 6.* the money raised by the Rates; also with the money that comes to them by the forfeitures of Delinquents upon the Statutes against Alehouse-keepers and Tiplers, sale of

Tenters default of Clothiers, the Flesh in Lene in a Victualling house, for taking Partridges, profaning the Sabbath or Gods name; and such as offend against the Statute made for the Poor, and against Rogues.

*Numb. 7.
In making of
Rates.*

The next main thing wherein the duty of these Officers doth lie, is in making of Rates. For to this purpose, it is provided, that the Church-wardens and Over-seers of the poor, or the greater part of them, with the assent of two Justices of the Peace, may raise weekly or otherwise (by Taxation of every Inhabitant, Parson, Vicar, and other, and of every Occupier of Lands, Houses, Tythes impropriate, or appropriation of Tythes, Coal-mines, or saleable Underwoods in the said Parish, in such competent sum and sums of money as they shall think fit) a convenient Stock of Flax, Hemp, Wool, Thread, Iron, and other necessary Stuff to set the poor on work: and also competent sums of money, for and towards the necessary relief of the Lame, Impotent, Old, Blind, and such other among them being poor and not able to work: And also for the putting out of the Children of poor persons to be Apprentices: And also for the setting up of houses for the Poor, to be gathered out of the same Parish, according to the ability of the same Parish, and they may doe and execute all other things, as well for the disposing of the said Stock, or otherwise concerning the premises as to them shall seem convenient. For the better understanding of which branch of the Statute of 43. *Eliz.* and discovery

discovery of the Law, concerning Rates in general, these things must be known.

1. That when Officers are to make any Rates, they shall doe well the first of all to give publique notice in the Church, of the time and place when and where they intend to make the same (for this in the case of Church Rates is necessary;) and then if the Parishioners will meet they may, if not, the Officers and those that doe meet, may make the Rate.

2. The Rates must not be extended beyond the Parish, neither may the Overseers Rate other Parishes towards the Rates of the Poor of their Parish. For in *Hill. Term. 10. Car. inter Nichols and Walker*, was this case in the *Kings Bench*. *Totridge* was time out of minde, within the Parish and parcel of the Parish of *Hatfield*, in the County of *Hertford*; and the Parson of *Hatfield*, had time out of minde, had all the Tithes out of *Totridge*, as within the parish of *Hatfield*, and had alwayes placed Curates there to say Divine service in the Chappell of *Totridge*; and that for sixty years before *Totridge* was reputed a parish of it self, and during that time, had parochiall Officers; and that of late the Overseers of the poor for the Parish of *Hatfield*, had taxed the Plaintiff *Nichols* (being an Inhabitant of *Totridge*) to pay to the poor of *Hatfield*, which tax was confirmed by the Justice; and the money being unpaid, the Defendant *Walker*, being an Overseer by Warrant from the Justices of Peace, distrained the Plaintiffs Goods; and for this taking of his Goods *Nichols* brought an Action against *Walker*; and

in this case it was adjudged for the Plantif, and Resolved by the Judges, that *Totridge* being but a Parish in reputation only, should not be liable to the Taxation made by the Overseers of the Poor of *Haifield*. 3. Every man must be rated for his Land to all Rates according to the quality and yearly value, and not according to the quantity thereof. And so was the opinion of the Lord Chief Justice, and Baron *Denham*, at an Assises at *Salum*. 8. *Car.* 4. He that doth occupy Land in his own hands, lying in severall Parishes, must be charged in every Parish for his Land there, only proportionably and no more. 5. The Farmer is to be rated for the Lands he hath in Lease, not the Lessor. 6. The Lord or Lessor shall not be charged for the Rent issuing out of the Land, because the Tenant is chargeable for the whole Land. 7. If there be some other Lands within the Parish that be ancient Demesne, and some that be Guildable, it seems they must be all rated, and so also of Copyhold Lands. 8. Impropriations (by the very Letter of the Statute) are to be rated to the Poor as well as other Lands. And in the rating of them, it seems reasonable, that where they have the Tenth of the whole Parish, they bear the Tenth of the charge of the Rate to the Poor. And so hath it been of late Resolved by the Judges. 9. Saleable Underwoods (by the express Letter of the Statute are rateable, and by these are intended generally, all Woods for Fire-wood, albeit they be not cut in thirty or forty years

years (as the Beech-wood of many Countries is used to be cut) for it seems there is no wood to be exempted from this Rate but Timber-wood onely : Also Coal-mines are chargeable to this Rate, and for these things they must be proportioned to a yearly benefit. So that if a man have a hundred Acres of wood within the Parish, it must be considered what wood he may sell, and what benefit he may make thereof yearly, to the Worlds end ; and according to the same the Rate must be made : And for Coal-mines it must be considered what benefit a man doth make by them, and according to the same, he must be rated. 10. Parsons, Vicars, and such like persons (as Inhabitants) within the Intent of this Statute, are to be rated towards the relief of the Poor as well as other men ; and so hath it been Resolved of late by the Judges. 11. Any man that dwelleth within the Parish, albeit he have no Land within the Parish, may be rated towards the relief of the Poor of the Parish. And so hath it been also Resolved by the Judges. 12. In some cases a man may be taxed for his Goods, as well as for his Lands ; and in case of a Rate for the Poor, men may be taxed for their visible Estate of goods, viz. their Oxen, Kine, Sheep, &c. as well as for their Lands, and not only for those goods that are within the same Parish, where a man doth dwell, but also for those goods which he hath in any other place : for a man shall not be rated for his goods in any place, but
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in the place where he doth dwell. Nay it is held in this case of Rating for the poor, some respect may be had to mens invifible Estate of money; for the case may be fo, that the Raters may know a man within the parish that hath no other Estate, and yet perhaps hath an annuity of one hundred pounds by the year, or hath hundreds of thousands of pounds of money owing to him; and in such a clear and certain case, they may no doubt Rate him according to that value. 13. In some special case a man may be Rated beyond his ability: for if a Parishioner for his own gain, or otherwise, shall bring into the parish, without the consent thereof, a Stranger who is, or is apparently like to be burthensom to the parish, in this case the Parishioners (because they have no other remedy against him) may Rate him, not only according to his ability of Lands and Goods, but according to the Damage he bringeth, or is like to bring to the Parish by his folly: For if any person shall finde himself grieved with any such Rate to the Poor, or other such like act done by the Overseers of the Poor, or the Justices of the Peace, he hath no other remedy but to complain to the Justices of the Peace at the Quarter Sessions, where (the case appearing to be as aforesaid) he shall have a little relief. 14. If any man refuse to pay his Rates for the poor, the present or subsequent Overseers of the Poor shall have a Warrant from the Justices of the Peace to levy the same of the parties Goods; And thereupon they may and must sell the parties Goods, and pay themselves

selves their Rate, and give the party the over-plas of the money if there be any; and if he have no Goods, then to carry him to Gaol, there to abide until he doe pay it. It seems to me, that for relief of the poor that they have not places for, in case of necessity, that they may Rate the parish to build a house, and to buy a peece of ground in some of the Parithioners names to set it upon: For it is in their discretion which way to provide. And if they over-rate any man to these ends, they cannot be sued by the party grieved: But if there be any conspiracie in the case, to oppress a man, or he be rated to pay debts, or for Alimonie, or for any other purpose by these Officers, an Action will lye against them.

These Officers, with the Church-wardens, the Parson or Vicar, and the Constables of the place, or the most part of them (where any money is or shall be given, to be continually employed for the binding out, as Apprentices, the poorest sorts of Children) shall within the same places, have the nomination and placing of such Apprentices, and the guiding and imployment of such monies as have been heretofore so given, or which hereafter shall be so given to and for the continual binding forth of such and so many Apprentices; and in such sort as is already or shall hereafter be so given and appointed, either by the last Will or any Writing under the Hand and Seal of the givers of such monies. And if any of them wilfully forbear or refuse, according to their duties, to imploy such monies, by means whereof, the said monie shall not be imploy-
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ed accordingly, then every of them so offending, shall forfeit three pounds for every such offence. And the Master, Mistress or Dame of such Apprentices shall be bound with one or two sufficient Sureties, in double the sum they have received with such Apprentices, to such persons as aforesaid, appointed to dispose the same monies, to repay the money so received at seven years end, or within three moneths next after the same seven years ended. And if the Apprentice, Master, &c. happen to die within the said seven years, then within one year next after such death. And these Officers and the rest ought to put forth and employ such monies within three moneths at the furthest, after the same shall come to their hands. And if there shall not be found fit persons to be bound out Apprentices in the Towns and Parishes where such monies are or shall be given, to be employed as aforesaid, the poorest Children of any of the Parishes next adjoyning may (by the discretion of the said Parson, Vicar, &c.) be bound Apprentices, taking such Bonds as are before mentioned. And choise must be alwaies made of the poorest sort of Children; and that no Apprentice be above fifteen years old when he shall be first bound. And the said Parson, Vicar, &c. are once every year in Easter week, or within a moneth after Easter day, to be accountable before four, three, or two Justices of the Peace, dwelling in or next the said Towns or Parishes, for all such monies as they have

have employed in binding of Apprentices; and of all Bonds and Obligations taken for payment thereof, and of the monie remaining in their hands, and are at such accompt or within ten dayes after, to deliver to their Successors, or to such as have been in their times or places, all the said Bonds and Obligations, and such monies as remain in their hands not then employed.

They must, being required by the Justices *Numb. 8.* of Peace, attend them, and with the Church-wardens, give them an accompt of these things; *In making Pre-sentment.* what Stocks of monie are in their Parish by Rates or otherwise; what Apprentices they have placed; and what they have done in all the rest of their Office.

These Officers and the Church-wardens, are to meet monethly in the Church, on Sunday after Evening Prayer (except they be let by Sickness or other cause, to be allowed a good excuse by two Justices of the Peace) to consider of all these things.

They are alwayes, within four dayes after the end of their year, and after other Overseers named and allowed by the Justices, to give up to any two such Justices of the Peace as aforesaid, a true and perfect accompt. 1. Of all sums of money by them received or rated, and not received. 2. Of all such stock of Ware or Stuff as they or any of their poor have in their hands. 3. What Apprentices they have put out. 4. What poor they have set on work, or relieved. 5. Whether they have suffered any of their poor to wander and beg out of their Town, or in the High-ways,

ways, or in their Town without their direction. 6. Whether they have not monethly met to consider of these things. 7. Whether they have Assessed the Inhabitants and Occupiers of Lands, &c. in their parish, viz. all such as are of ability, and with indifferency. 8. Whether they have endeavored to levy and gather such Assessments. 9. Whether they have been any way negligent in their Offices, in executing the Justices Warrants about any thing touching their Office.

And if any Church-warden or Overseer shall refuse to give up his accompt as aforesaid, and to pay over the Arrearages due (if any be) upon the same accompt, unto his Successor, he may be committed to the Gaole by two Justices of the Peace, untill he doe accompt and pay over the same monie. And if any of these Officers shall offend in any other of the particulars aforesaid, he shall forfeit for every default twentie shillings.

All these forfeitures are to goe to the use of the poor of the parish, and may be levyed as followeth, viz. The monie forfeited by the Father, Grand-father, &c. of any poor person taxed by the Justices, towards the maintenance of such poor person that will not pay that Rate, may be levyed of the offenders Goods upon a Warrant from two or more Justices of Peace as aforesaid, by sale of the same Goods, rendering to the party the over-plus of the monie. And if there be no distrels to be had, the Justices of Peace may commit the offender to prison, there to remain without Bayl,

Bayl, until the forfeiture be paid : The monie forfeited by the Church-wardens or Over-seers, for not receiving or taking care to convey a Rogue, &c. may be levied upon the offenders Goods, upon a Warrant from two or more Justices of the Peace : The monie forfeited by the Church-wardens and Over-seers for offending in any of the particulars aforesaid, may be levied by the subsequent Church-wardens and Overseers upon the offenders Goods : Also in the same manner by a Warrant from any two Justices of the Peace : And if there be no such distress to be found, the same Justices may commit the same offenders to Gaole, until they doe pay it. And if any man shall in any wise disturb the Execution of the Statute of 39 Eliz. 4. he shall forfeit five pounds, and be bound to the Good-Behaviour by any two Justices of the Peace.

We have done with the Office of these Officers, so far as it concerns the poor; now we come to that wherein their Office lieth about other matters ; the which is given them also by certain Acts of Parliament, and lyeth in these particulars following.

For the better understanding of the Law Numb. 9. herein, these things are to be known. *Against such as*
1. This day is by every one to be sanctified *prophane the*
and kept holy, and men must be carefull *Lords Day.*
herein to exercise themselves in the duties of
Piety and true Religion, publickely and privately :

vately : and every one on this day (not having a reasonable excuse) must diligently resort to some publique place , where the Service of God is exercised , or must be present at some other place in the practise of some Religious duty , either Prayer , Preaching , Reading , or expounding the Scriptures , or conferring upon the same. 2. None may on this day meet out of their own Parish at any Sports whatsoever ; nor may they meet within their own Parish for Bear-baiting , Bull-baiting , Enterludes , or other unlawfull exercises , under pain to forfeit three shillings four pence for every offence , to be levyed by distress and sale of Goods ; and for lack of distress to sit three hours in the Stocks. Nor may any one on this day keep , or be present at any Wrastring , Shootings , Bowlings , ringing of Bells for pleasure , Masque , Wake , Church-ales , Drinking-games , Sport or Pastime whatsoever , under pain to forfeit five shillings if he be above fourteen years old , and twelve pence by him that hath the Government of him if he be under fourteen year old , to be levyed by distress and sale of Goods , or if no distress be to be had , to sit in the Stocks three hours. 3. No Carrier may goe with his Horses , Wagoner , Carter , or Wain-man , may goe with his Cart , Wagon , or Wain ; or Drover with his Cattell on this day , under pain to forfeit twenty shillings for every offence , to be levyed by distress and sale of Goods , if he be questioned within six weeks after the offence done. But there shall be but one twenty shillings forfeited for one journey , although he pass through

Carriers.

through twenty Parishes; and this twenty shillings that Parish shall have where the distress is, first taken. 4. No Butcher may kill or sell any victuals on this day, under pain to forfeit six shillings eight pence, if it be questioned within six weeks after the offence done, to be levied by distress and sale of goods. 5. None may Cry, shew forth, or put to sale any Wares, Merchandises, Fruit, Herbs, Goods, or Cartell on this day, unless it be an Inn or Victualling-house; and for such as cannot otherwise be provided for, and unless it be the crying and selling of Milk before nine in the Morning, and after four in the Afternoon, from the tenth of September to the tenth of March; and for the rest of the year, before eight in the Morning and after five in the Afternoon, under pain to forfeit the thing so cryed or offered to sale. 6. None may on this day without good cause, by allowance of one Justice of Peace, travell, under pain to forfeit ten shillings, nor carry any burthen, or doe any worldly labor; under pain to forfeit five shillings. Both these forfeitures to be levied by distress and sale of goods; and if none distress be to be had, to sit in the Stocks three hours. 7. None may on this day or the dayes of Humiliation, or Thanksgiving, use Dancing, profanely Drinking, or Tippling in any Tavern, Inn, Ale-house or Tobacco-house, nor be there, or grinde any Corn at a Mill but upon cause, to be allowed by one Justice of Peace, under pain to forfeit ten shillings a peece; he that is in the

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*Serving of
Process.*

*coaches,
Boats.*

Inn, and he that keeps the Inn; the Mil-
lard, and he that owes the Corn, to be levi-
ed by distress and sale of Goods, and for
lack of distress, to be set six houres in the
Cage or Stocks. 8. No Traveller, Waggoner,
Butcher, Higler, Drover, or their Servants,
shall come into their Inn, or lodge on Sa-
turday night after twelve a clock, nor goe
from thence Monday morning before one
of the clock, without necessary cause, to be
allowed by one Justice of the Peace, under
pain of forfeiture of ten shillings by the
Traveller, and to be levied by distress and
sale of Goods, and for lack of distress to be
set six hours in the Stocks or Cage. 9. None
may execute any Writ, Order or Warrant on
this day, dayes of Humiliation, or Thank-
sgiving (but in case of Treason, Fellony,
breach of the Peace, any profaning of the
day) under pain to forfeit five pounds, to
be levyed by distress and sale of Goods, and
for want of distress to sit six hours in the
Cage or Stock, and the serving of the Pro-
cess is void. 10. None (but in case allowed by
one Justice, or for Gods service) may travel
with any Boat, Wherry, Lyter, Barge,
Horse, Coach, or Sedan on this day, under
pain of forfeiture of ten shillings by him
that is carried, and five shillings by him
that doth carry, to be levied by distress and
sale of Goods, and for lack of distress to sit six
hours in the Cage or Stocks.

Any one of these Officers, upon their own
sight or knowledge of any Offence done, by
selling, crying, or offering of Wares to sel

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on the Lords day, as before, may seize and secure the Wares and Goods, till Justice may be done against the Offender therein. Also any of these Officers may search for the discovery, finding out, apprehending and punishing of all the Offenders, against any of the Lawes aforesaid. And all that this Officer is to doe, as it seems by this Law, is only to search; and if he finde any thing, to inform the Justice of Peace thereof: for it seems to me he cannot doe more without a Warrant from a Justice of Peace. *Act. 9. April, one thousand six hundred and fifty.*

Every one that sweareth, is to forfeit for Numb. 10. the first Offence as followeth. The Lord, Against Swear- and all above him in degree, thirty shillings. vers. The Baronet or Knight, twenty shillings. The Esquire ten shillings. The Gentleman six shillings eight pence. Any other man or woman, single or married, three shillings four pence, and for every offence afterwards twice as much. And for the tenth offence, being proved by verdict or confession, he is to be bound with Sureties to the Good-Behavior for three years: and for lack of payment, or giving security to pay it, and distress to levy it, if he be above twelve years old, he is to sit by the Heels in the Stocks three hours for the first offence, and six hours for every offence after; if under Twelve years, he is to be whipped by the Constable, or Master, or Father in his presence: three swearings after the Surety, for the Good-behavior given, is a breach of the Bond.

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Any one of these Officers may without Warrant apprehended, or cause to be apprehended, and carry or cause to be carried to a Justice of Peace, to the end he may be there punished; any one that doth swear or curse against the Law. *Act. 18. June*, one thousand six hundred and fifty.

About superstitious monuments.

Any one of these Officers may also take down superstitious Monuments and Pictures upon the Ordinance of *May*, one thousand six hundred forty and four.

About Rogues.

If a Rogue be tendred and brought to any one of the said Officers, to be conveyed to any place, he is to receive him and look to him, as well as the Constable, or he may forfeit the five pound penalty appointed, by the Statute of *29 Eliz.*

CHAP.

CHAP. XIII.

Of the Supravisors of the High-ways, and their Office.



He Supravisors or Survey-Numb. 1.
ors of the High-ways; are *What they are,*
Officers yearly chosen by *and how they*
the Constables & Church- *are chosen.*
wardens of the Parish, to

look to the amendment of
the High-ways within the
Parish. For the Constables
and Church-wardens of every Parish, must
yeerly upon the Tuesday or Wednesday in the
Easter week, call together some of the Pari-
shioners, and then choose two honest persons
of the Parish, to be Orderers and Overseers
of the works, for the amendment of the High-
ways of the Parish leading to Market Towns.
But now by the new Ordinance, the choise is
to be made the first Tuesday after the twenty
fifth of *March* yearly. And the safe way is to
choose them the first, and to choose them or
approve them the second day again. The
which persons so chosen, shall have power to

order the persons and carriages appointed for the work, according to their discretion: And if either of the said persons so chosen and appointed, shall refuse to take on him and execute the said Office, he shall forfeit twenty shillings for this refusal. *Stat. 2 & 3 Phil. & Ma. c. 8. 18. Eliz. 9. 5 & 13. 29. & 5.*

*Numb 2.
Their Office
and Duty.*

For the discovery of the duty of these Officers, and the Law in this point; these things are to be known,

1. That they have to doe with no wayes, but the publick High-ways. And so hath it been resolved by the Judges in the Upper Bench: For the Statute is High-ways leading to Market Towns.

2. The Constables and the Church wardens of the Parish are at the time of choosing of these Officers, to name and appoint six dayes, to be before the Nativity of Saint John the Baptist, then next following, set apart for the amending of the High wayes; and they are to give notice thereof the next Sunday after in publick in the Church: And this being done, these Officers, viz. The Surveyors of the High-ways are to see that the same be observed, and that all the Parishioners doe their work on the same dayes in manner as followeth.

3. Every person having a Plough, Land in Tillage, or in Pasture, in the same Parish, or keeping there a Plough or a Draught, shall finde and send on every day to the place appointed, one Wain or Cart, provided after the fashion of the Country, with Oxen, &c. fit for the carriage, and with necessary Tools

Tools fit for the work, and with two able men; and then and there these men must doe such work with their Plough, &c. as they shall be appointed to doe by the Surveyors aforesaid, by the space of eight hours on every of the said dayes, under pain to forfeit for every default ten shillings. And every other Housholder, Cottager, and Laborer of the Parish (able to labor, and being no hired Servant by the year) must by himself, or some other able man, be then and there ready to work, and work every one of the said six dayes by the space of eight hours, as they shall be appointed by the said Surveyors, under pain to forfeit twelve pence for every day they shall make default herein. In the Explication of which Branch, these things are to be known.

First, That a Plough land is not of any certain content, but ordinarily so much as one Plough may plough in one year; which in some Countries is more, in some less, according to the heaviness of the soyl. *Cook.* 4. 37. & 9. 124.

Secondly, That so many Ploughs as men usually have, and use in the Summer about their own business, so many they are to bring with them to this work: So that (for example) if a man with one Plough, and five or six horses, shall plough seven or eight-score Acres of Errable Land, and shall usually go in the Summer with two Carts or Draughts; in this case, it seems he is to come with two Carts or Draughts to this

service. And he that occupieth forty or fifty Acres of Land, and keepeth only three Horses, and one Draught or Cart, he is to come with one Draught or Cart.

Thirdly, If a man keep only two Horses and a Cart for his own business; In this case it seems, he is to come with his Cart and two Horses, provided with a man or men to manage them.

Fourthly, He that hath a Plough-Land, and hath no Plough, but doth suffer his Land to lye fresh, yet is to finde and send a Plough to this work: And so it was agreed by the Judges in the Upper-Bench. *Mich. 21 Jac.*

Fifthly, A Plough-Land may contain House, Meadow, Pasture, and Wood; and therefore, if one have so much of this, as will keep a Plough, and yield Tillage for it, if part of it were Eared up: In this case, it seems, he is bound to send his Plough, or else to pay for the same the penalty appointed by the Statute, for his neglect.

Sixthly, He that keepeth a Plough or Draught for carriage albeit he occupieth little or no Land or Pasture, in his own hands; yet such one, it seems, is bound by the Statute to send his Plough to this service.

Seventhly, He that doth occupie a Plough Land lying in Tillage or Pasture, in several Parishes, shall be chargeable to the amending of the High-ways in the Parish where he dwelleth, as far as any person having a Plough-Land in any one Parish is chargeable.

Eightly,

Eighthly, Every person keeping in his hands and possession, severall or divers Plough-Lands, shall be charged to finde in each Town or Parish where the Plough-Lands (being in his occupation) doe lye, one Cart, &c. furnished for the reparation of the High-ways in the severall Parishes where his Land doth lye, as if he were a Paritioner dwelling in the Parish where the Plough-Land doth lye.

Ninthly, If a man be chargeable but as a Cottager, yet if he be in the Subsidy five pounds in Goods, or fourty shillings in Lands; so long as he stands at that Rate, he is to send two able men to the work every one of the six dayes.

4. If the Surveyors shall think any of the Ploughs or Carts to be needles any of the dayes, they may spare them, and instead thereof require two able men; the which must come under pain to forfeit twelve pence a man for every default.

5. These Officers must see that the work be done according to the direction of the Statutes; and every man is to see that he doth his part therein. But if the Surveyors themselves shall licence any man to doe less then his work, this will excuse him.

6. The Owners of the grounds adjoyning to the High-ways, are to take care that all the Fences, Hedges, and Ditches, next adjoyning on either side of the same, be from time to time Dicked, Scoured, Repaired and kept low; and that all the Trees and Bushes therein be cut down, under pain to lose

lose for every default ten shillings. And if any man hath any Ditch in his own Ground that doth serve to lead away the water out of the High-way, and he doth not scour and keep the same clean, so as to convey away the water; he shall forfeit for every Rood not so scoured 12 d. And if any man that hath a Ditch lying by the High-wayes side, doth cast the same up into the High-way, and then suffer the same to lie there by the space of six moneths, to the annoyance of the High-way, he shall forfeit for every Load so cast up, twelve pence.

7. These Officers may, if they see cause for the amendment of the High-ways, take and carry away so much of the Rubbish, and smallest broken Stones already digged of any mans Quarry lying within the same Parish, without leave of the owner, as they shall think needfull: But they may not without Licence dig in any mans Quarry for new Stones, much less take away any mans Stones already digged. And if there be no such Rubbish to be found in any mans Quarry, within the said Parish, then may they enter into any mans several ground (within the Parish) lying near the place where the wayes are decayed, and there, if they see hope of finding Materials fit for reparation thereof, may dig a new Quarry without any leave of the owner of the Grounds; or they may enter upon any mans Ground, and gather the Stones that lye dispersed there: But they may not without leave dig for any new Quarry in the House, Garden, Orchard, or Meadow of any man; nor (albeit it be in other

other Ground) dig more then one pit, and the same in bredth or length not above ten yards over at the most; and then also they must take care that the same be within one moneth after filled up again at the charge of the Parish, under pain to forfeit five Marks to the owner of the Ground. And if there be any Spring or Water in the High-way that doth annoy the High-way, they may turn the same out of the High-way into any mans Ditches, according to their discretion.

8. They must within one moneth after any default is made in any of the particulars aforesaid, present the same to the next Justice of Peace, under pain to forfeit fourty shillings for every neglect. And this Presentment that Justice of Peace must present to the next Quarter Sessions, under pain of five pounds.

9. If any man offend against the Statute of 2 Ed. 3. *Phil. & Mary*, (i.) If the Constables and Church-wardens shall not make a due election of these Officers, and set down and give notice of the times and dayes for the work; or if the Surveyors doe not look to, and order the work; or the Parissioners doe not wait upon the work, as aforesaid: In all these Cases, the Offender may be punished by Fine or Amerciament in the Quarter Sessions or Leet, according to the discretion of the Justices of the Peace, or the Steward. And these Fines and Amerciaments are to be lewyed and imployed by the High-Constable, in such sort as is set forth in Chap. 1. of the Constables Office in the beginning.

And

And if any man offend against the Statute of 5 Eliz. (1.) If these Officers, after they have digged in any mans inclosed Ground, shall not fill the Pit again; or if they shall not present the defaults to the next Justice of the Peace as aforesaid; or if any of the High-ways shall be unrepaired; or the owners of Grounds shall not cut up the Bushes, and scowr their Ditches adjoining to the High-ways: In these Cases the Offender may be punished by Fine at the Quarter Sessions, according to the discretion of the Justices of the Peace. And these Fines are to be levied and imployed as Fines and Amerciaments levied upon the Transgressors of the former Statute. And if any man offend against the Statute of 18 Eliz. chap. 9. (1.) If any man cast soyl into the High-way, and doe not remove it within the time aforesaid; or doe not scowr their Ditches, &c. and cut down their Bushes in their High-ways: the forfeitures of these men (being set down in certain by the same Statute) may be levied by these Officers immediately by distress and sale of the Offenders Goods, upon a Warrant sent from the Justices of Assize, Justices of the Peace, or Steward of a Leet, before whom the persons shall be convict. And if they be negligent, and doe it not within a year, then the Constables or Church-wardens of the place, may levy the same as monie is used to be levied upon an Amerciament in a Leet. But all these Fines and Forfeitures are now by the new Ordinance of Parliament, to goe to the new Surveyors, and by them to be laid out about the High-ways, Ord. 31. March 1654.

19. If all this labor appointed by the Statutes to be bestowed on the High-ways, be not sufficient for the amendment thereof, the Parish must supply it: For the Paritioners of every Parish are to look to their High-ways, that they be well repaired and kept at their peril. For an Information or Indictment may be (by the very Common Law preferred for the Keepers of the Liberties of England, &c.) against the Inhabitants of a Parish for not repairing of their High-ways; and thereupon they may be fined to the Keepers of the Liberty, &c. And in this case the Fine shall not goe to the use of the High-ways, as the Forfeitures and Penalties for the breaches of the Statutes shall doe.

See more for the amendment of the High-ways in *Suffex, Surrey, and Kent, Stat.*

39 *Edw. 1. c. 19. 27 Edw. 6. 19.*

And now as touching the new Ordinance, *Of the new Surveyors, upon the new Surveyors Power and Duty therein; and new Ordinance.* the Law at this day in this poynt, these things *and their Office* are to be known.

That there must be two or more sufficient *who must be* Householdors of every Parish, severally hold- *chosen.* ing Lands of twenty pounds, or more, a year, *Numb. 3.* or that are worth one hundred pounds, in personall Estate, chosen the first Tuesday after the twenty fifth day of March yearly: (And

upon this day also it seems now the Surveyors *20 l. forfeit by* also are to be chosen: And if no such choise *the Parish, for* be made of these new Officers this day, then *want of choise;* the Overseers of the Poor for that present time must be the Surveyors of the High-ways

also

also upon this new Law. Also Scavengers (where any are) or (as it seems) they may be made in any Parish as new Officers: And there they are to be Surveyors, & have equall power with the Surveyors by this new Law. And now, at this day, by this we doe perceive that there are to be Supravisors for the High-ways, upon the former Laws, to oversee all the Work required to be done by them, which is to be continued and performed still. And there are to be new Surveyors, by this new Law, to oversee the Work to be done thereby; and these are distinct Officers one from the others. And if these Officers execute their Offices faithfully but a while, their wayes will be so good, that there will be little to doe for either of them, for a long time afterwards.

*what they may
and must doe.*

Item 1.

Item 2.

Item 3.

Item 4.

Item 5.

Item 6.

Item 7.

Item 8.

Item 9.

Item 10.

Item 11.

Item 12.

Item 13.

Item 14.

Item 15.

Item 16.

Item 17.

Item 18.

Item 19.

Item 20.

The men of the Parish chosen to this Office, by this new Law, they are to see to these following things. 1. They must take upon them the Office, and procure themselves, within ten dayes after their choyse, to be sworn before some Justice of Peace, or forfeit ten pounds for their refusal. 2. They must repair and cleanse, and keep repaired and cleansed all the High-ways, common Bridges, Water-courses, Streets, and Pavements, belonging to the Parish. And in Cities and Towns corporate, all the Scroods and Pavements therein, or the Suburbs thereof or near adjoyning to the same. And in other places where Pavements and Streets are, they are to look to them: And they are to reform common Nuisances herein. They are also to pro-
secure

secure all such as have streightned the High-ways by Hedges, Ditches, Walls, or the like, within twenty years past; and such as doe not scour and dress their Hedges, Ditches, &c. and such as have any Pavements defective, or suffer any Nuisance by filth or otherwise.

3. They are for this purpose, within ten *Twenty shil-* daies after they have taken their Oath, to *ings forfeit, if* view all the common and publick High-ways, *neglected.* and Roades where Carts and Carriages usually passe, and consider what is to be done, and what money to be raised to doe it.

4. They are, within six dayes after this view, to give notice in their Parish Church or Chappell; of a time and place of meeting, to be within three daies after, to meet to make a Rate to raise money to doe it.

5. At that time and place they, with their, or the greater part of their Neighbours present (if they can agree together) if not, by themselves are to make a pound Rate in writing upon all the Occupiers of Houses, Lands, Tythes, Cole-Mines, saleable Woods, Tenements, and Heradiments within the Parish; and upon all the dead Goods, Commodities, or Stock in Trade, accounting twenty pounds therein, to be equall to twenty shillings a year in Land. And herein they may rate over and above all such men as doe suffer any Nusances in, or doe any hurt to the High-ways: And so they may rate as oft as they please, so as they doe not exceed herein twelve pence in the pound for one year.

6. If these Officers and the rest of the Parishioners present, cannot within two dayes of this meeting agree, then they themselves may

may make it : And being made, they must get it to be confirmed by the hand of one Justice of the Peace. And being thus made, it is become a perfect Rate, and not to be altered but by the Justices of the Peace in their Quarter Sessions, or by two of the Justices then present at the Quarter Sessions : And this Rate, if every man doth not pay it within seven dayes after it is made, and after publique notice is given for the payment of it, is to be doubled. 7. They are to hire Ploughs and Men, so many as they think fit : And the Men so hired must work, being required, for the wages that any two Justices of the Peace shall set down. 8. They may cause the Dytyches adjoyning to High-ways, or serving to lead the water from them, that are undressed or unscoured, to be dressed and scoured. And for any water-course that doth run into or stand in any High-way to annoy it, they may stop it or turn it into any adjoyning Ditch; or they may make new Ditches in convenient places through the grounds adjoyning, for the conveyance thereof another way. And they may cut, slash, and keep low all the Trees, Bushes and Hedges standing in High-ways, or that are suffered to grow up by them, to keep the strength of the Sun from them. 9. They may dig and take Stones, Gravel, Sand, Cynder, Chalk, or any thing fit for the mending of the High-ways in any common ground. And if none be to be found therein, or no such Common there, then they may take it in any private mans Ground, Pasture, or Fallow in or near the Parish.

Parish. And they may take a convenient way to carry it through any mans ground at seasonable times: but for this way, and for materialls taken out of a private mans ground, they are to give to him reasonable satisfaction such as they can agree upon; and if they cannot agree upon it, then such as any one Justice of Peace not interested in the thing, and indifferently chosen between them shall set down. 10. If the Parish by the Rate of twelve pence in the pound in the whole year, cannot sufficiently amend their High-wayes, the Surveyors may by the help of the Justices of the Peace get them help from other Parishes, that are under that Value in the whole year, untill their whole charge come up to this Rate. And if there be any thing given towards the Repair of their High-wayes, which is not employed or mis-employed, they are to seek to the Justices of Peace for relief herein. 11. These Officers also may, and so may any Constable or other man within the Parish, take all the Horses, Mares, and Oxen that are in Carts and Waggon loaden, drawn through the Parish, that are over and above five Horses or Mares, or six Oxen and one Horse in one Cart or Waggon. And if the Owner doe not within seven dayes after the taking thereof, pay twenty shillings to the Parish wherein they were taken, for every Oxe Mare or Horse, over and above the number aforesaid, with the charge laid out about it, and for the keeping of it; then he may sell the same and deduct so much of the money. But the overplus

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he

By-Laws.

he must give back to the Owner. 12. If all this will not doe; to redress the defects of pavements and water-courses, and to make them run freely; and for the removing of filth and other Nuisances in streets, and other by places, the Inhabitants of the Parish may make by-Lawes for a speciall Rate upon the Parish, and make speciall Officers, and put penalties upon Offenders, and other things to doe it. And these Rates and penalties may be levied by distress and sale of the goods of the party, by warrant from any Justice of the Peace: and these By-lawes they may have confirmed by the Justices of the Peace in their Quarter Sessions. 13. They are to imploy and bestow all the Rates, Penalties, Fines and forfeitures, arising by this new Ordinance, or by any other lawes touching High-ways and Streets; and all Issues to be forfeit for not appearing to any Information or Indictment for not repairing of High-ways, or not removing or reforming of Defects or Nuisances in Streets or High-ways; and all Fines and Amercements to be set upon any place or person for not repairing High-ways, Streets, or Water-courses, to pay for Workmen and Ploughs, and to doe other things to be done by this Ordinance. 14. Those Rates and penalties these Surveyors, or any of them, may levy by distress and sale of goods of the party, by a warrant from any one Justice of the Peace: and for lack of distress or not payment thereof within ten dayes after demand made or left in writing, under the hands of the Surveyors, or either of them at his house,

Distress.

who

who is to pay it, the party may, by warrant of the Justice, be committed to Gaol without Bail till he pay double the money to be paid, and the charges of prosecution for the recovery of it. 15. They are within a moneth of the end of the year in their Office, to give in to the Parish at some meeting, to be by them appointed, a just and perfect Account of all the money by them recived, and laid out, in the time of their Office; and they are to pay over the money then remaining in their hands to their Successors. And herein they may deduct the money they have laid out in the prosecution of such as doe any Nufance in the High-way; and upon his neglect or refusall that is a Surveyor, any Justice of Peace may commit him to Gaol without Bail, till he make such Account and payment, and such satisfaction to the Parish for the wrong, as any one Justice of the Peace shall set down. 16. And if any of these Officers, or any other, be sued for any thing done in these things, the Action must be laid in the County where it was done, he may plead to it the generall Issue: and if the case appear so, the Jury must fine for the Defendant; and then, or if the Plaintiff be non-suit, or discontinue his Action, the Defendant shall have his full costs he hath laid out, to be set down by his own oath, and ten pounds more to make him amends for his vexation, *Ordinance of the Lord Protector and his Councell, March 31. 1654.*



CHAP. XIII.

Of the Register of a Parish and his Office.

*What he is,
and how he is
chosen.*



The Register of a Parish is a new Officer chosen by the Parish, and allowed by the Justices of the Peace, for the publication of Contracts of Marriages, and for the taking and keeping of the entries of all the Marriages, Burialls and Christnings of the Parish. He is to be chosen by the Parish, and approved and sworn by a Justice of Peace, and the same entred upon the Register book of the Parish: And then he is to continue three years in his Office and longer, till another be chosen; unless the Justice of Peace, or Justice of Peace and Parish together, put him out in the mean time.

*His Office and
Duty.*

This Officer is to receive a note in writing from any one or both of his Parish, or one of his,

his, and one of some other Parish, that intend Marriage, of their Names, Surnames, Additions, and places of abode, of the parties to be married, and of their Parents, Guardians, and Overseers.

2. This he is to publish, or cause to be published three several Lords dayes then next following, at the close of the morning exercise, in the Church or Chappel; or, if the parties to be married desire it, in the Market-place next thereunto, on three Market dayes, in three several weeks next following, between the hours of eleven and two of the Clock.

3. Upon request of the parties concerned, he is to make a true Certificate of the due performance hereof.

4. If any exception be made against the same intended marriage, he must insert the same, with the name of the person making the exception, and his place of abode in the Certificate of publication.

5. It were very convenient for him to be present at the Marriage; for he is to attend the Justice of Peace to subscribe the entrie of the Marriage.

6. He is to call for, receive, and keep the old Church-Book; and to call for, of the Parish, a new Register parchment Book, which the Parish must provide, and he must keep; And therein he is fairly to enter in writing all the publication of Marriages, Marriages, Births of Children, and Burials of all sorts of persons, and the names of every of them, and the dayes of the moneth and year of publications, Marriages, Byrths, and Burials,

and the Parents, Guardians, or Overseers names. And for this his Fees are as followeth : For the publication and Certificate of a Marriage twelve pence ; and for the entry of the Marriage, twelve pence : And for the entry of the Birth of a Child four pence ; And for the entrie of the death of any man four pence. And for all this, for poor People that live upon Almes, nothing : But by the Ordinance of 3. Jan. 1644. it was ordained, That such a Book should be provided by every Parish, and kept by the Minister and other Officers of the Church ; and that therein the names of all Children and their Parents, the time of their Byrth and Baptism ; and of all persons Married, and the time of all Buried, and the time of their Birth and Burial be written and set down by the Minister there. And that the same Book shall be shewed forth by such as keep it, to all persons reasonably desiring to search for any such thing, or take a Copie, or procure a Certificate thereof.

So that now by this the Minister must take care of this also ; for this power is not taken from him by the new Law, being in the affirmative : Therefore he and the Register must doe it together, or else he must be made Register ; and this is the best way.



CHAP. XV.

Of a Parish-Clerk, and his Office.



THe Parish Clerk is a Lay Officer of a Parish, chosen according to the Custom of the place; to attend upon the Minister and Church-wardens, about holy things. This Officer may be a Lay man, and is to be chosen according to the Custom of the place; if usually the Parish have chosen him, so he must be chosen; and that election will stand, and no Canon of the Church, when Canons were in force, could have altered it: And therefore in this Case if the Parish, according to Custom, had chosen one man; and Minister of the Parish, and the Bishop, or Chancellor of the Diocess had chosen another, according to the Canon, the Clerk chosen by the Parish should have stood; And the ordinary might not have de-

prived him. *Jac. Co. B. Candist and Plom case*
Hughes Rep. 163. Nor can the Parson of a
 Parish put a Clerk so chosen out of his place
 without cause, or interrupt him; he may have
 an Action against him, as another man that
 is interrupted in any Lay Office, *March. Rep.*
101. pl. 174.

His Office lyeth only in and about these
 things; To set the Bread and Wine and Cups
 decently upon the Communion Table, to pro-
 vide water for Baptising, make and keep
 clean the Church, put the Bible and C

for the Minister, begin the Psalm,
 ring the Bell or Bells, and such like things.
 See the same case.

His wages.

If any of the Parishioners withhold his wages,
 he may be relieved herein by any two Justices
 of Peace; who may by Warrant require pay-
 ment thereof: And these two Justices may,
 by Warrant, under their Hands and Seals,
 order the Parishioners to pay it: And if they
 refuse, as it seems, send their Warrant to levy
 it by distress and sale of Goods, and for lack
 hereof, send the partie to Gaole till he pay it.
 But without Question the two Justices may
 binde the Parishioners over to the Quarter
 Sessions one year; if the Parishioner refuse
 to obey their Order, the Sessions may binde
 them to the Good-Behaviour; or upon In-
 dictment for their contempt, fine and impris-
 on them, *Ordin. 9. Feb. 1647.*



CHAP. XVI.

Of a Hayward of a Parish or Mannor, and his Of- fice.



He Haward or Hayward of a *what.*

Parish is an Officer of a Parish chosen and sworn in a Leet, for the Town, to be the common Heard of the Town, *Kyrb. 46.*

The Law taketh not *His Office.* much notice of this Officer, but it is said, He is to keep the Hedges of the inclosed Grounds of the Parish, so that they be not cropt nor broken down, and the Grasse of the Parish from the destruction of Cattell, so that Hay be made thereof : That he is to execute such Proceſs of the Lords Court, as doe come from the Lord or his Steward of his Court there. That he is to present all POUND breaches made there, and all Wayffs and Estrays that shall come there. But if he doe not so, we know

CHAP. 16. *The Hayward of a Parish or Mannor.*

know no Law to enforce him to it, nor to punish him for neglect of it.

But the best use that we know is, or can be made of him is, to look to the common Fields and Commons of the Parish; and to doe his best to prevent and to restrain Trespases and spoil. But herein he can doe nothing more than any other Servant, nor otherwise then as a Servant to the parties trespassed, and by authority or allowance from them.



CHAP. XVII.

Of the Bayliff or Reeve of a Mannor, and his Office.

what he is.



He Bayliff or Reeve of a Mannor is an Officer of a Mannor chosen by the Lord of a Mannor, to dispose of his Affairs concerning the Mannor.

Of this Officer the Law doth take some more notice. And his Office is said to lye in these things.

His Office.

1. He is to collect the Lords Rents, Fines, Harvots, Amercements, and other profits happening

pening within the Mannor, as they grow due.

2. He may seize or distrain for them, *Ex Officio*, where seizure and distress is justifiable, as Bayliff, without any special command of the Lord.

3. He may also pay any Rent due, out of the Mannor, to any other person.

4. It said said, He may also order his Masters Husbandrie, distrain Beasts, damage fasant, repair any houses, hayes, or pales, and for that purpose cut down any Timber or Trees. That he may take any Cattel for his Master to compass his ground as an Agistment. That he may cut down Underwoods that have been used to be cut, and doe any other such like thing for the bettering and improving of his Masters Land and Mannor. But it is not safe for a Bayliff (as we conceive) to take too much herein upon him without some special authority from the Lord; nor very safe for others to joyn with him herein, unless they be sure of his authority, or he hath been long Bayliff there, and hath been used alwayes to doe such things as Bayliff. But it is agreed of all sides, That if he build any new house, or set up any old house that is fallen, or make any new additions or alterations, as tyle the house which before was thatched, or pale it where before it was hedged, or the like, without a special command from the Lord so to doe, he will be a Trespassor to the Lord by in.

5. These also are to oversee and order the labors of other Laborers and Servants that are under them, about their Masters work.

6. And

6. And lastly, They are to give account to their Lords, of all their Receipts and disbursements, and pay into them the money remaining in their hands, being required. And if they refuse, the Lord may compell them hereunto by an especial Action of Account given to him for his relief in the Case, *Broo. Bayliff* 31. 8 Ed. 4. 130



CHAP. XVIII.

*Of such Watchmen as keep
watch and ward.*

*The Power and
Duty of them.*



He Office and Power of a Watchman and Wardsmen lyeth in these things.

1. They are, being required by the Constable, to watch and ward from *Ascension* till *Michaelmas*; the Watchmen from Sun set to Sun rising; and the Wardsmen from Sun rising to Sun set.

2. These Officers are to pose all men, and to arrest and secure all Rogues and suspicious persons, and if it be in the night, to keep them

them till the morning, and then bring them to a Justice of Peace to be examined; or if they will, they may deliver them to the Constable, who must take care of them. And if any resist them and break away they may send Hue and Cry after them.



CHAP. XIX.

Of the Minister of a Parish.



He Minister of a Parish his *His Office and* Office about civil mat- *Duty.* ters, lyeth in these things only.

1. He must keep a Register Book
2. He must herein enter a Testimoniall, or Pass, of all the Rogues that are taken up and whipped in the Parish.

3. He must herein enter all the Licences he gives to sick persons, to eat flesh in lent.

4. He must also enter therein all Testimonials of Servants, departing from their Masters.

CHAP.

CHAP. XX.

*Of Owners and Rulers of Faires
and Markets, and their De-
puties.*

*Their Office
and Duty.*



He Office of Rulers, and Owners of Fairs and Markets lyeth in these things.

1. they must appoint one certain open place in the Faire or Market, for sale of Horses, Geldings

Mares and Colts, and one sufficient person to take toll, and keep the place.

2. This Deputy or person so appointed, must take Toll there from ten a clock to Sun-set, upon the Market or Faire day.

3. And he may take Toll after or before or in another place.

4. when any Contract is made about the sale of any horse, the parties contracting, and the horse about which the Contract is made, must be present.

5. He

5. He must have and keep a Book to enter all Contracts of Horses.

6. He must there enter and write down the names of the Persons contracting, the place of their dwellings, and colour, or some other speciall mark of the horse.

7. If he know the Seller himself, he may enter it as upon his knowledge, the name of the Seller and place of his dwelling, myserie, price, and otherwise he must take the same knowledge from some one credible person that will testifie it, and then he must enter also in the Book the Names, Mistry, and place of dwelling of the Testifier.

8. He must give a note of this entrie out of his Book to the Buyer, so he will pay him two-pence for it.

9. This Clarke or Register is, within a day after the Faire or Market, to bring his Book to the Governor or Master of the Faire.

10. This Governor is then to cause a Note to be made of all the Horses sold, and to subscribe his name or mark to it. *Stat. 31 Eliz.*

27. 2 and 3 Ph. and M. 7.

FINIS.

It is a book to be read, not a book to be looked at.

and the other side of the river

Other special features of the book

1. The first of these is the fact that the majority of the population of the United States is now living in urban areas. This is a result of the process of urbanization, which has been going on since the beginning of the 20th century. The process of urbanization is the movement of people from rural areas to urban areas. This is done for a variety of reasons, including the search for better living conditions, the desire for education, and the need for employment. The process of urbanization has led to the growth of large cities and the decline of small towns. This has had a significant impact on the way we live and work. For example, it has led to the development of new technologies and industries, and it has changed the way we think about the world. The process of urbanization is still going on, and it is likely to continue for many years to come. This is because there are still many people who are looking for better living conditions, and there are still many people who are looking for employment. The process of urbanization is a complex one, and it is one that has shaped the world in many ways. It is a process that we cannot ignore, and it is one that we must understand if we are to understand the world in which we live.

2

... will follow it, and then in full order

place of dwelling on the TUMBA
to the north of the TUMBA

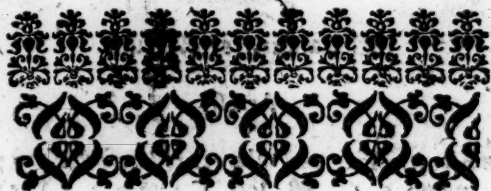
of the book to the public. It is a will pay him

that the Board of Directors, including his Board

...to make a Note

1. The first step is to identify the problem or question that needs to be answered. This involves understanding the context and the specific requirements of the task.

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